

# Washington State Register

**FEBRUARY 18, 1998**

**OLYMPIA, WASHINGTON**

**ISSUE 98-04**



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## PUBLIC INSPECTION OF DOCUMENTS

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## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

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## 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 February 1998 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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# WASHINGTON STATE REGISTER

(ISSN 0164-6389) is published twice each month by the Statute Law Committee, Office of the Code Reviser, Olympia, WA 98504-0552, pursuant to RCW 34.08.020. Subscription rate is \$210.60 per year, sales tax included, postpaid to points in the United States. Periodical postage paid at Olympia, Washington.

POSTMASTER: SEND ADDRESS CHANGES TO:

WASHINGTON STATE REGISTER  
Code Reviser's Office  
Legislative Building  
P.O. Box 40552  
Olympia, WA 98504-0552

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

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Dennis W. Cooper  
*Code Reviser*

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*Chief Assistant Code Reviser*

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Joyce Matzen  
*Subscription Clerk*

## STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

### 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

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

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

### 2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

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

### 3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

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

### 4. EFFECTIVE DATE OF RULES

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

### 5. EDITORIAL CORRECTIONS

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

**1997 - 1998**  
**DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION**

Issue No.	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>	Expedited Adoption <sup>4</sup>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS			
For Inclusion in--	File no later than 12:00 NOON--			Count 20 days from--	For hearing on or after	First Agency Adoption Date
97-16	Jul 9	Jul 23	Aug 6	Aug 20	Sep 9	Oct 4
97-17	Jul 23	Aug 6	Aug 20	Sep 3	Sep 23	Oct 18
97-18	Aug 6	Aug 20	Sep 3	Sep 17	Oct 7	Nov 1
97-19	Aug 20	Sep 3	Sep 17	Oct 1	Oct 21	Nov 15
97-20	Sep 3	Sep 17	Oct 1	Oct 15	Nov 4	Nov 29
97-21	Sep 24	Oct 8	Oct 22	Nov 5	Nov 25	Dec 20
97-22	Oct 8	Oct 22	Nov 5	Nov 19	Dec 9	Jan 3, 1998
97-23	Oct 22	Nov 5	Nov 19	Dec 3	Dec 23	Jan 17, 1998
97-24	Nov 5	Nov 19	Dec 3	Dec 17, 1997	Jan 6, 1998	Jan 31
98-01	Nov 26	Dec 10	Dec 24, 1997	Jan 7, 1998	Jan 27	Feb 21
98-02	Dec 10	Dec 24, 1997	Jan 7, 1998	Jan 21	Feb 10	Mar 7
98-03	Dec 24, 1997	Jan 7, 1998	Jan 21	Feb 4	Feb 24	Mar 21
98-04	Jan 7	Jan 21	Feb 4	Feb 18	Mar 10	Apr 4
98-05	Jan 21	Feb 4	Feb 18	Mar 4	Mar 24	Apr 18
98-06	Feb 4	Feb 18	Mar 4	Mar 18	Apr 7	May 2
98-07	Feb 18	Mar 4	Mar 18	Apr 1	Apr 21	May 16
98-08	Mar 4	Mar 18	Apr 1	Apr 15	May 5	May 30
98-09	Mar 25	Apr 8	Apr 22	May 6	May 26	Jun 20
98-10	Apr 8	Apr 22	May 6	May 20	Jun 9	Jul 4
98-11	Apr 22	May 6	May 20	Jun 3	Jun 23	Jul 18
98-12	May 6	May 20	Jun 3	Jun 17	Jul 7	Aug 1
98-13	May 20	Jun 3	Jun 17	Jul 1	Jul 21	Aug 15
98-14	Jun 3	Jun 17	Jul 1	Jul 15	Aug 4	Aug 29
98-15	Jun 24	Jul 8	Jul 22	Aug 5	Aug 25	Sep 19
98-16	Jul 8	Jul 22	Aug 5	Aug 19	Sep 8	Oct 3
98-17	Jul 22	Aug 5	Aug 19	Sep 2	Sep 22	Oct 17
98-18	Aug 5	Aug 19	Sep 2	Sep 16	Oct 6	Oct 31
98-19	Aug 26	Sep 9	Sep 23	Oct 7	Oct 27	Nov 21
98-20	Sep 9	Sep 23	Oct 7	Oct 21	Nov 10	Dec 5
98-21	Sep 23	Oct 7	Oct 21	Nov 4	Nov 24	Dec 19
98-22	Oct 7	Oct 21	Nov 4	Nov 18	Dec 8	Jan 2, 1999
98-23	Oct 21	Nov 4	Nov 18	Dec 2	Dec 22	Jan 16, 1999
98-24	Nov 4	Nov 18	Dec 2	Dec 16, 1998	Jan 5, 1999	Jan 30

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

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

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

<sup>4</sup>A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited adoption and the agency adoption date. No hearing is required, but the public may file written objections. See RCW 34.05.230, as amended by section 202, chapter 409, Laws of 1997.

## **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;

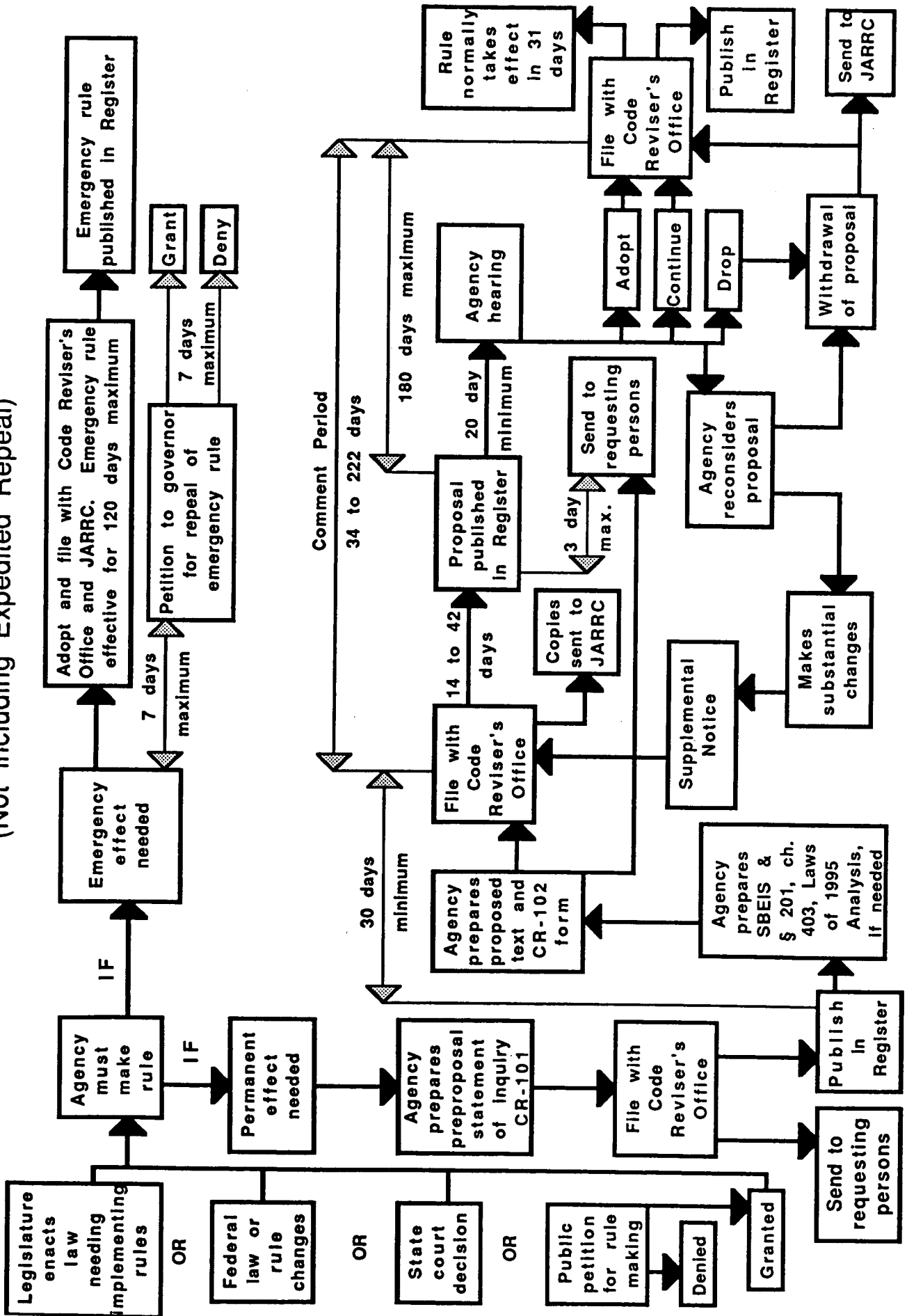
The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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 98-04-033**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**GAMBLING COMMISSION**

[Filed January 29, 1998, 12:35 p.m.]

Subject of Possible Rule Making: Alternative to Dennis Zaborac's petition on mark-up of merchandise prizes for pull tab games.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070 (1), (2), (3).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Mr. Zaborac's proposal would remove any mark-up on merchandise prizes. Further consideration is needed to come up with an alternative mark-up percentage that takes into consideration the various factors in operating merchandise games.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ben Bishop, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; or Carrie Tellefson, Director of Policy, Support and Enforcement, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; or Soojin Kim, Rules and Policy Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 #310. Meetings at the Ramada Governor House, on February 12, 1998, 621 Capitol Way South, Olympia, WA 98501, (360) 352-7700; at the Holiday Inn Sea-Tac, on March 12 and 13, 17338 International Boulevard, SeaTac, WA 98188, (206) 248-1000; and at The Inn at Semi-ah-moo, 9565 Semiahmoo Parkway, Blaine, WA 98230-9326, (360) 371-2000.

Soojin Kim  
 Rules and Policy Coordinator

**WSR 98-04-037**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF HEALTH**

(Board of Pharmacy)

[Filed January 29, 1998, 3:54 p.m.]

Subject of Possible Rule Making: Chapter 246-904 WAC, Health care entity. Rule making is needed to remove kidney dialysis centers from the definition of health care entity, which is consistent with legislation passed in the 1997 legislative session (chapter 129, Laws of 1997).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.64.005(7).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: During the 1997 legislative session, kidney dialysis centers were removed from the definition of health care entities. The Board of Pharmacy has authority to adopt rules to implement the legislation.

Process for Developing New Rule: This rule will be developed using regular Pharmacy Board meetings and mailings to interested parties.

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

publication by contacting Lisa Salmi, Washington State Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504-7863, (360) 586-3018, FAX (360) 586-4359.

January 13, 1998  
 Donald H. Williams  
 Executive Director

**WSR 98-04-043**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF TRANSPORTATION**

[Filed January 30, 1998, 10:47 a.m.]

Subject of Possible Rule Making: Revision to WAC 468-38-260, allowing permitted oversize loads to move during night-time hours under specific conditions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.44.090 Special permits for over-size or over-weight vehicles.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The revision is necessary to bring current practice into compliance with the rule. Current practice has been changed to provide greater safety to the motoring public by allowing certain over-dimensional moves to be made during hours of low traffic volume.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Washington State Patrol (WSP) is the enforcement arm of this rule and was part of the decision-making process.

Process for Developing New Rule: Agency study, the revision was a recommendation from a process improvement team looking at the motor carrier services permitting processes. Besides the department, the WSP and industry were represented on the team.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Barry Diseth, phone (360) 664-9497, FAX (360) 664-9440. No formal meetings are scheduled due to the nature of the change. An emergency rule change is in place.

January 30, 1998  
 Gerald E. Smith  
 Deputy Secretary  
 Operations

**WSR 98-04-044**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF TRANSPORTATION**

[Filed January 30, 1998, 10:50 a.m.]

Subject of Possible Rule Making: Establishes new chapter 468-510 WAC, Lane use restrictions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 34.05 and 34.08 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Establishes new sections, WAC 468-510-010 High occupancy vehicles (HOVs) and 468-510-020 Left lane restrictions.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These

Agencies: There are no other state agencies that regulate high occupancy vehicles (HOVs) or left lane restrictions on state highways.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting David K. Peach, State Traffic Engineer, Washington State Department of Transportation, P.O. Box 47344, Olympia, WA 98504-7344, phone (360) 705-7280, FAX (360) 705-6826.

January 29, 1998  
Gerald E. Smith  
Deputy Secretary  
Operations

**WSR 98-04-049**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**PUBLIC EMPLOYMENT**  
**RELATIONS COMMISSION**

[Filed January 30, 1998, 2:39 p.m.]

Subject of Possible Rule Making: Filing and service of papers, interpreter, petition for review, subpoena, declaratory order, and housekeeping changes to chapter 391-08 WAC. Conforming changes to chapters 391-25, 391-35, 391-45, 391-55, and 391-95 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.58.050, 41.59.110, 41.56.090, 28B.52.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Proposed changes pursuant to Executive Order 97-02 will address problem of clientele errors related to filing and service of papers, conform interpreter rule to current statutes, standardize procedure for appeals, consolidate procedural requirements for subpoenas, and establish procedure for declaratory order petitions. Housekeeping items will correct typographical errors, delete repealed WAC chapter, and make proper usage of terms such as "furnished" and "shall."

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mark S. Downing, Rules Coordinator, P.O. Box 40919, Olympia, WA 98504-0919, phone (360) 753-2955, FAX (360) 586-7091.

January 30, 1998  
Marvin L. Schurke  
Executive Director

**WSR 98-04-066**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)

[Filed February 2, 1998, 1:50 p.m.]

Subject of Possible Rule Making: Chapter 388-517 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Section 4732 of the Federal Balanced Budget Act of 1997 (Public Law 105-33), and RCW 74.04.050, 74.08.-090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This proposed amendment is necessary to implement a new federal requirement in the Balanced Budget Act. This amendment will increase the number of people who may be eligible for Medicare cost-sharing.

Process for Developing New Rule: The department invites the interested public to review and provide input into the adopted language of this proposed WAC amendment. The department will distribute draft material for an internal and external review process. All comments are taken into consideration before issuance of final rule.

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

February 2, 1998  
Edith M. Rice, Chief  
Office of Legal Affairs

**WSR 98-04-075**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF AGRICULTURE**

[Filed February 4, 1998, 10:00 a.m.]

Subject of Possible Rule Making: Chapter 16-102 WAC, Butterfat testing in milk.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.36.021(1) Fluid milk.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Butterfat testing is important because the butterfat content is used in the buying of milk and cream from producers. Standards and labels for dairy products also require minimum fat levels.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Food and Drug Administration regulates standards for labeling and fat in dairy products, the United States Department of Agriculture milk administrator sets milk prices and regulates sale of milk by producers.

Process for Developing New Rule: None, a rules review was conducted in accordance with the Governor's Executive Order 97-02. The department has determined after the review, including review by the Dairy Inspection Program Advisory Committee (DIPAC) and Food Safety Advisory Committee review (FSAC), not to propose any changes to this rule at this time. The rule is scheduled for review again in 2001.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Comments will be accepted until March 20, 1998. Please direct written comments or questions to Verne Hedlund at Washington State Department of Agriculture, 1111 Washington Street, P.O. Box 42560, Olympia, WA



98504-2560 or by telephone to (360) 902-1860, FAX (360) 902-2087.

February 4, 1998  
Candace A. Jacobs, DVM  
Assistant Director

**WSR 98-04-077**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF AGRICULTURE**

[Filed February 4, 1998, 10:53 a.m.]

**Subject of Possible Rule Making:** To change WAC 16-752-500 through 16-752-660 pertaining to noxious weed seeds and plants, which may include actions such as adding *Cabomba caroliniana* (fanwort), *Lysimachia vulgaris* (garden loosestrife), and deleting *Hypericum perforatum* (common St. Johnswort).

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapters 17.10 and 17.24 RCW.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** As market conditions change, the sale of aggressive plant species in our state contributes to their spread as weeds and compromises ongoing control work. The Washington State Noxious Weed Control Board would prefer to focus quarantine efforts on new invaders and to delete currently established species.

**Process for Developing New Rule:** The Washington State Noxious Weed Control Board has requested the changes to this rule. Representatives of the Washington State Department of Agriculture discuss options for specific provisions of the proposal with the board and then publish the rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary Toohey, Assistant Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, FAX (360) 902-2094, e-mail mtoohey@agr.wa.gov; or Lisa Lantz, Executive Secretary, Washington State Noxious Weed Control Board, 1851 South Central Place, Suite 211, Kent, WA 98031-7507, phone (253) 872-2972; FAX (253) 872-6320, e-mail waweeds@wolfenet.com.

February 4, 1998  
Mary A. Martin Toohey  
Assistant Director

**WSR 98-04-078**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF AGRICULTURE**

[Filed February 4, 1998, 10:54 a.m.]

**Subject of Possible Rule Making:** To add Skagit County to the existing apple maggot quarantine area.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 17.24.041.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Insect trapping data from 1996 and 1997 indicates that apple maggot, an economically significant pest of apples, has become established in portions

of Skagit County. The proposed rule change is intended to prevent or minimize the possible movement of apple maggot from Skagit County into uninfested areas, such as the commercial apple-growing areas of eastern Washington.

**Process for Developing New Rule:** The apple maggot working group, which represents the affected industry, has requested this change. Representatives of the Washington State Department of Agriculture discuss options for specific provisions of the proposal with this group and then publish rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mike Klaus, Project Entomologist, Washington State Department of Agriculture, Laboratory Services Division, 2015 South 1st Street, Mailstop 7, Yakima, WA 98903, phone (509) 454-4189, FAX (509) 454-7858, e-mail mklaus@agr.wa.gov; or Mary Toohey, Assistant Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, FAX (360) 902-2094, e-mail mtoohey@agr.wa.gov.

February 4, 1998  
Mary A. Martin Toohey  
Assistant Director

**WSR 98-04-081**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**INSURANCE COMMISSIONER'S OFFICE**

[Insurance Commissioner Matter No. R 98-2—Filed February 4, 1998, 11:24 a.m.]

**Subject of Possible Rule Making:** Cost of capital for property and casualty rate filings.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 48.02.060, 48.19.020, 48.19.080.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The provisions of WAC 284-24-065 regarding cost of capital were identified in the Insurance Commissioner's regulatory improvement review as a regulatory scheme that may need to be revised and updated. The commissioner will consider methods, including reorganization of the rules, to increase the effectiveness of the rules and to simplify the compliance and enforcement processes.

**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 written comments may be submitted by March 11, 1998, to Kacy Brandeberry, P.O. Box 40256, Olympia, WA 98504-0256, e-mail inscomr@aol.com, FAX (360) 407-0351.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kacy Brandeberry, P.O. Box 40256, Olympia, WA 98504-0256, phone (360) 407-0729, FAX (360) 407-0351, Internet kacyb@oic.wa.gov.

February 4, 1998  
Greg Scully  
Chief Deputy Commissioner

**WSR 98-04-087****PREPROPOSAL STATEMENT OF INQUIRY  
STATE BOARD OF EDUCATION**

[Filed February 4, 1998, 11:46 a.m.]

Subject of Possible Rule Making: WAC 180-79A-420 Academic requirement for certification—Administrators and 180-79A-422 Experience requirement for initial endorsement—Principals.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These sections are being revised to clarify the language; the requirements themselves are not being changed.

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

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

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

February 4, 1998

Larry Davis

Executive Director

**WSR 98-04-091****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF HEALTH**

[Filed February 4, 1998, 11:50 a.m.]

Subject of Possible Rule Making: Civil fines in boarding homes.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.20.050 and 18.20.190.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Statutory authority for civil fines already exists in RCW 18.20.190. The Department of Health has relied on technical assistance in the past to promote compliance. However, in the last year Level 2 complaints have increased from 64 in 1996 to 280 in 1997. Level 3 complaints have increased from 24 in 1996 to 109 in 1997. Technical assistance is no longer sufficiently working and the department needs a greater deterrent to increase compliance.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Department of Social and Health Services and the long-term care ombudsman will be involved in any meetings and all mailings regarding this rule.

Process for Developing New Rule: Draft language will be mailed to interested parties for comment.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jennell Prentice, Rules Coordina-

tor, Facilities and Services Licensing, P.O. Box 47852, Olympia, WA 98504-7852, (360) 705-66661 [705-6661], (360) 705-6654. Interested parties may contact Jennell Prentice to be placed on a mailing list. Questions should be directed to Kathy Stout, Director of Facilities and Services Licensing, at (360) 705-6652.

February 4, 1998

Bruce Miyahara

Secretary

**WSR 98-04-092****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF HEALTH**

[Filed February 4, 1998, 11:51 a.m.]

Subject of Possible Rule Making: Rules regulating Washington state's use of funds from the federal drinking water state revolving fund (DWSRF).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.119A.170.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This is a high priority rule that addresses public health problems related to water systems. Federal funds, managed by the state as a revolving loan program, will be provided to meet the capital needs of water systems and to provide revenues for new state programs authorized by Congress in the Safe Drinking Water Act (SDWA). DWSRF funds will be used for projects that (1) address the most serious risk to public health; (2) are necessary to ensure compliance with the requirements of the SDWA; and (3) assist systems most in need on a per-household basis according to state affordability criteria. State statute requires adoption of the rule by January 1, 1999.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Section 1452 of the SDWA amendments of 1996 authorizes the administrator of the United States Environmental Protection Agency to award capitalization grants to states, which in turn can provide low-cost loans and assistance to eligible water systems. RCW 70.119A.170 mandates the Department of Health to work in cooperation with the Public Works Board to establish and maintain a program to use DWSRF funding. The DWSRF is jointly managed by the Department of Health - Division of Drinking Water and the Public Works Board, along with its partner, the Department of Community, Trade and Economic Development. Both agencies are responsible for each step in the rule-making process, pursuant to a memorandum of understanding between the agencies.

Process for Developing New Rule: Joint rule making in accordance with RCW 70.119A.170.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The Department of Health and the Public Works Board are mandated under RCW 70.119A.170 to adopt joint rules. A public hearing for the proposed rule will be advertised in various newspapers, the Internet, the state library, and a mailing to water systems, advisory committees, and interested parties. Contact Department of Health, Division of Drinking Water, Attn: Chris Gagnon, P.O. Box

47822, Olympia, WA 98504-7822, FAX (360) 236-2252,  
phone (360) 236-3095.

January 28, 1998  
Pete A. Butkus  
Rules Coordinator

January 30, 1998  
Kristine Van Gorkom  
for Bruce Miyahara  
Secretary

**WSR 98-04-094**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed February 4, 1998, 11:59 a.m.]

Subject of Possible Rule Making: Safety standards for agriculture, chapter 296-307 WAC.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Federal OSHA has identified items for which the department's rules are not at least as effective as OSHA's rules. The legislature has made law defining agriculture for the purpose of this chapter, and the chapter must be amended to reflect the law. The chapter also contains a variety of housekeeping errors, inconsistencies, and other problems that need to be corrected.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Federal OSHA also regulates this subject. We must maintain rules that are at least as effective as those enforced by federal OSHA.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Laura Brand-Bauer, Project Manager, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620, phone (360) 902-4504, FAX (360) 902-5529.

February 4, 1998  
Gary Moore  
Director



**WSR 98-02-077**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Aging and Adult Services Administration)  
 [Filed January 7, 1998, 11:20 a.m.]

Supplemental Notice to WSR 97-18-087.  
 Preproposal statement of inquiry was filed as WSR 96-18-089.

Title of Rule: Revisions to the adult family home minimum licensing requirements, WAC 388-76-540 through 388-76-705.

Purpose: To make the adult family home regulations more clear, more easily understood, and more reflective of practices that are currently in place.

Statutory Authority for Adoption: RCW 70.128.040.

Statute Being Implemented: Chapters 70.128 and 70.129 RCW.

Summary: Due to laws passed in the 1995 legislative session, rules governing adult family homes were completely revised and became effective in July 1996. In the past year, internal and external stakeholders have provided input and feedback concerning their experience implementing these rules. This feedback made it evident that changes to the regulations were needed to: (1) Eliminate faulty and/or confusing language; (2) make the regulations clearer and more easily understood; and (3) make the regulations more reflective of current practice. In addition, some changes are necessary to ensure department expectations are clearly defined and easily understood.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Stacy Winokur, P.O. Box 45600, Olympia, WA 98504-5600, 1-800-422-3263 or (360) 407-0505.

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

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

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

Proposal Changes the Following Existing Rules: These changes will: (1) Eliminate faulty and/or confusing language; (2) make the regulations clearer and more easily understood; (3) make the regulations more reflective of current practice; and (4) ensure department expectations are clearly defined and easily understood.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

#### Small Business Economic Impact Statement

WAC 388-76-540 through 388-76-765

Adult Family Home Minimum Licensing Requirements  
 Rules Analysis

#### Introduction

**What is a rules analysis?** On July 27, 1997, the Department of Social and Health Services (DSHS) was added to the list of state agencies which has to comply with certain requirements and activities in the Administrative Procedure Act, the law that governs agency rule making. These requirements and activities include answering specific

questions related to proposed rules, and estimating the probable costs and benefits of those rules. The small business economic impact statement, an analysis which the department has previously been required to complete, is incorporated into the rules analysis.

**What is the purpose of a rules analysis?** The purpose of the rules analysis is to assist members of the public to understand the rules and fulfill the requirements of RCW 34.05.328, one of the laws that governs agency rule making.

**What is an adult family home (AFH)?** Adult family homes are residential homes licensed to care for up to six residents. They provide room, board, laundry, necessary supervision, assistance with activities of daily living, personal care and social services. Some homes also provide nursing or other special services. Adult family homes are one of several choices available to Washington state consumers who need long-term care, yet want to remain in the community in a homelike setting.

Since the beginning of the program in 1973, the number of licensed adult family homes has been steadily increasing. In 1973 there were 546 homes. In October of 1997, there were 2,281 licensed adult family homes in Washington state, with a capacity to provide services to approximately 10,584 persons. From 1993 through 1996 the total number of licensed homes grew by several hundred homes per year. Between October of 1996 and October of 1997 the number of licensed homes grew by only 88. As of October 1997, there were approximately 2,900 adult family home residents supported by Aging and Adult Services, and approximately 1,100 residents supported by the Division of Developmental Disabilities.

**How do adult family homes fit into the long-term care system?** It has long been acknowledged that Americans who need long-term care prefer to remain in their own homes, or in the least restrictive setting possible. While a majority of persons in Washington state receive long-term care services in their homes, some lack the support networks that enable them to continue receiving care at home, or their needs become so complex that home care becomes impractical. These people often seek long-term care services in settings where they can reside and receive services, referred to as residential long-term care. This type of service is also sometimes called the community care model, because it is intended to provide for a full array of social, functional, and medical long-term care needs in a community setting.

Responding to the need for a variety of long-term care services and settings, the 1995 Washington state legislature enacted E2SHB 1908, which directed the department to increase the number of cost effective long-term care options for persons enrolled in Medicaid and other programs in which the state participates in the cost of care. These options include in-home services, adult family homes and other community residential options, such as assisted living.

Along with the development of residential options, the 1995 legislature required the department to reduce the number of state clients residing in nursing homes by a minimum of 1,600 persons over the ensuing two-year period. The department was directed to offer choices to persons residing in nursing homes who may choose to move to another residential setting. The subsequent growth in adult family homes and other community-based long-term care,

PROPOSED

occurred as both private and state clients chose long-term care in less restrictive, less costly settings.

**Summary of rule development:** Due to the laws passed in the 1995 legislative session (described above), rules governing adult family homes were completely revised and became effective in July 1996. In the year following, both internal and external stakeholders (i.e., DSHS divisions other than Aging and Adult Services, adult family home provider organizations, and consumer advocate organizations) provided input and feedback concerning their experience implementing these rules. This feedback made it evident that changes to the rules were needed to:

- Eliminate faulty and/or confusing language;
- Make the rules clearer and more easily understood;
- Make the rules more reflective of current practices; and
- Ensure department expectations were clearly defined and easily understood.

The adult family home rules were revised and filed proposed on September 3, 1997. Due to feedback received both orally and in writing, the department decided to make significant changes to the original proposed rules, and will file revised proposed rules in January 1998. This rule analysis is based on the revised proposed rules.

#### EXPLANATION OF THE RULE

**What are the general goals and specific objectives of the statute that these rules implement?** These rules implement chapter 70.128 RCW, Adult family homes, whose purpose is as follows:

*RCW 70.128.007 The purposes of this chapter are to:*

- 1) *Encourage the establishment and maintenance of adult family homes that provide a humane, safe, and homelike environment for persons with functional limitations who need personal and special care;*
- 2) *Establish standards for regulating adult family homes that adequately protect residents;*
- 3) *Encourage consumers, families, providers, and the public to become active in assuring their full participation in development of adult family homes that provide high quality and cost-effective care;*
- 4) *Provide for appropriate care of residents in adult family homes by requiring that each resident have a care plan that promotes the most appropriate level of physical, mental, and psychosocial well-being consistent with client choice; and*
- 5) *Accord each resident the right to participate in the development of the care plan and in other major decisions involving the resident and their care. [1995] 1st sp.s. c 18 § 19; 1989 c 427 § 15.] NOTES: Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18: See notes following RCW 74.39A.030.*

**Why are these rules needed to achieve these goals and objectives?**

In the year following the implementation of the new adult family home chapter, internal and external stakeholders provided feedback concerning their experience using the new rules. Based on that input, it became clear to the department that revisions were needed to make the rules clearer, more easily understood, and more reflective of practices that are currently in place. In addition, as increasing numbers of individuals have chosen to reside in adult family homes there has been a corresponding change in the complexity of care. As a result, there are larger numbers of residents with increased medical needs and/or cognitive deficits, and some of the rule changes reflect these trends.

#### COORDINATION WITH OTHER FEDERAL OR STATE REQUIREMENTS

**Do the rules require those to whom they apply to take an action that violates the requirements of another statute or law?** No.

**Do the rules impose more stringent performance requirements on private entities than on public entities?** No.

**Do the rules differ from any federal regulation or state statute applicable to the same activity or subject matter?** No.

**How will the department coordinate the rules, to the maximum extent practicable, with other federal, state and local laws applicable to the same activity or subject matter?** DSHS is the only agency that licenses and regulates adult family homes, and the rule sections to which we are making revisions are overseen only by DSHS/Aging and Adult Services. At present, the department is not making changes to sections in the rules for which coordination with other state agencies is necessary.

#### IMPLEMENTATION PLAN

**How will the agency: (1) Implement and enforce the rules; (2) inform and educate affected persons about the rules; and (3) promote and assist with voluntary compliance with the rules?**

- All persons on the department's interested parties' mailing list, including all current providers, were mailed copies of the proposed rules and will be mailed copies of the final rules.
- Regional workshops will be held to offer training to all providers on the new rules.
- Through adult family home orientations, prospective providers will receive copies of the rules, an application packet, and other documentation, such as sample forms, that will assist them to understand and comply with the rules. In addition, department staff provide an overview of the rules during adult family home orientations.
- As noted in the section on mitigation, the department heavily emphasizes teaching and consultation to support compliance with the rules. The department emphasizes problem prevention through monitoring and screening of potential providers, and through early intervention and education of providers when deficiencies are found. The department uses a written enforcement decision tree to determine remedies for violations of rules, relying on a structured progression of remedies commensurate with the severity and scope of the violation.

**How will the agency evaluate whether the rules have achieved the purpose for which they were adopted, including the use of interim milestones and objectively measurable outcomes?** The department routinely relies on provider and stakeholder feedback to evaluate the adult family home rules. The department hosts quarterly adult family home quality forums that provide key stakeholders with a regular opportunity for feedback. In addition, upon request, department staff attend adult family home provider association meetings to address a variety of topics, including the adult family home rules.

The department will also rely on the inspection and complaint investigation processes to determine how well the rules achieve the purposes described earlier. These processes will provide documented information about the extent to which the rules support appropriate service delivery to residents, the department's success in implementing the rules, and will help to determine which rules need to be strengthened, clarified, or eliminated.

In addition, as part of a comprehensive review of the department's rules, the adult family home rules are scheduled for a thorough review beginning in June of 1999, to be completed no later than September 2001. This review will take into account the general goals and specific objectives of the statute, and will include an analysis of the rules' success in implementing these goals.

#### **WHO IS AFFECTED AND HOW WERE THEY INVOLVED?**

**What industries are required to comply with these rules?** All licensed adult family homes in Washington state are required to comply with these rules.

**How have members of the public and industry been able to participate in the rule-making process?** When the department first began revising these rules, drafts were distributed to a small group of stakeholders in August 1997, for their feedback. This group included both adult family home provider associations, the state long-term care ombudsman and attorney, and two advocacy organizations for persons with developmental disabilities. Based on their input, the rules were revised and filed proposed on September 3, 1997. Copies of the proposed rules were mailed to every current adult family home provider, and everyone on the department's interested parties' mailing list. In addition, an adult family home quality forum was held on September 16, 1997, and forum participants had an opportunity to provide input on the proposed rules at that time. Written comments on the proposed rules were accepted until October 21, 1997, which was the day the public hearing was held in Lacey, Washington.

**Are large and small businesses involved?** In reviewing current licensed adult family home providers, the department determined that the vast majority of adult family home providers satisfy the definition of a small business found in RCW 19.85.020: "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." However, a minority of adult family home providers own more than one home or operate other businesses. These providers are considered large businesses by the above definition, because they have fifty or more employees.

#### **WHAT IS THE IMPACT ON BUSINESS (E.G., ADULT FAMILY HOME PROVIDERS)?**

There are several categories of significant impact to businesses resulting from these rules. This section lists three categories of major impact. Also included is a discussion of how the department intends to mitigate these costs. In the section following, each proposed rule is discussed individually, and a more detailed explanation of probable costs and benefits is included (including those costs and benefits not solely related to businesses).

**1) Delay in obtaining licensure:** One impact of these rules will be incurred by applicants for new adult family home licenses, who, due to these rules, may experience a delay in obtaining a license (in comparison to the time required by the current application process). Prospective adult family home providers who have to wait to obtain a license will be unable to admit more than one resident, and consequently will not earn revenue from the daily rate that they might otherwise have earned. The potential impact on a provider due to a delay in starting an adult family home can be estimated at \$50.52, which is the estimated daily adult family home state payment rate for 1998 (source: John Woolley, "DSHS, Aging and Adult Services 1997-1999 Spending Plan," 1997). This can be multiplied by the number of clients that the adult family home would have in residence, and the number of days of delay caused by compliance with the rules.

Note, adult family homes vary a great deal: They may be licensed for between 2 and 6 residents; vacancy rates vary across the state; it can take many months before some homes are filled to capacity, and some may never have full occupancy in their home; and the state payment rate is an estimate of the daily rate for state fiscal year 1998, and there is a wide range of public and private daily rates. Also, every prospective provider may not actually forego earning revenue due to delays caused by the rules. For example, an applicant may have been found to have a disqualifying criminal history, and thereby would never have received a license.

**2) Changes in costs for initial applicants:** A second category of impact will be incurred by applicants in the early stages of the adult family home application process. Please note however, that many of these costs are already required by existing rules. The changes we are proposing will simply require the costs to be paid at an earlier point in the licensing process. An example of this type of cost is the \$90.00 fee required for registration with the Department of Health. Persons applying for an adult family home license have historically been required to pay this fee only after they have been determined eligible for licensure by the department. The proposed rule requires that they pay this fee before the department accepts their application. This means that some applicants, if ultimately determined to be ineligible for a license, may lose this nonrefundable fee.

Another type of cost borne by new applicants will be costs associated with required attendance at an adult family home orientation. Historically, adult family home applicants have attended an adult family home orientation prior to applying for a license, so the impact of this proposed requirement should be minimal. For an applicant who was not planning to attend an orientation, additional costs would

include the applicant's travel expenses in getting to the orientation, as well as his/her time spent attending the orientation. These costs will vary depending on how far the individual must travel, and what value can be placed on the time they spend in orientation.

3) **New costs for maintaining the business:** A third category of impact will be incurred by providers seeking to maintain their licenses. It is expected that these costs should be minimal, and will depend on how a provider currently runs the adult family home. Examples of this are the costs of making staff files available in the home, and the cost of creating documents, such as a parking plan.

In some instances, these costs are marginal costs, because the proposed rules build on previous requirements. An example of this is the proposed requirement that specific staff records, for example, caregiver training certificates, must now be kept in the adult family home and accessible to department licensors. In this example, specific staff records have always had to be available to department staff, but at times were not accessible if the provider wasn't available, or they may have been kept outside of the adult family home. Therefore, the cost of compliance with this rule will be highly dependent on the way the adult family home currently operates. For a multiple provider, who has historically kept all records in one central location, the provider must now incur the costs to copy, distribute, store, and update the records in the individual homes. In contrast, for providers with only one home, there may be no new costs associated with compliance.

Another example of a cost of maintaining an adult family home license is the cost of the development of a parking plan, which the proposed rules require for providers of more than one home. This cost is expected to take no more than one hour of time per home per year.

**Are there disproportionate impacts to large and small business?** It is important to emphasize that the proposed rules are tailored to an industry that is almost solely comprised of small businesses. Therefore, all prospective providers in the industry should, for the most part, be equally impacted by these rules. The one caveat is that providers who are small businesses may experience a disproportionate impact as compared to providers who are large businesses, because any costs or unearned revenue would constitute a greater proportion of their income.

**How did the department mitigate the economic impacts?** The rules are needed in order to accomplish the purposes listed in RCW 70.128.007, described previously. Because the rules are needed, the department cannot feasibly mitigate all impacts to business. However, the following steps have been taken to minimize any potential costs to business.

1) The rules clarify current requirements and establish new criteria for persons choosing to apply for an adult family home license. This should assist prospective applicants in determining if this is actually a business upon which they wish to embark, and whether or not they will be eligible for a license. This minimizes costs in applying for, or attempting to maintain a license for which a person is ill suited or ineligible.

2) The rules specify the qualifications and procedures for applying for, and maintaining, an adult family home license. To the extent that these rules clarify current rules,

they will contribute to a clearer, more consistent review of new applications and improve the process for inspections by the department. The proposed rules will likely save time of department staff, who will spend less time seeking consultation to interpret the rules. More specific rules will ultimately benefit providers, due to increased clarity of expectations, rules that are clearer and easier to understand, and increased speed in the review of applications and inspection processes.

3) When feasible, deadlines and requirements placed on businesses have been delayed. An example of a delay is the stipulation that adult family home resident managers upon employment, will have up to sixty days to register with the Department of Health. A previous version of the proposed rule required that resident managers register prior to their being designated as resident managers.

4) The department heavily emphasizes teaching and consultation to support compliance with the rules. The department supports providers in their efforts to improve quality by initially addressing problems through training, consultation, technical assistance, and case management. The department emphasizes problem prevention through monitoring and screening of potential providers, and early education of providers when deficiencies are found. The department uses a written enforcement decision tree to determine remedies for violations of rules, relying on a structured progression of remedies commensurate with the severity and scope of the violation.

5) The department will provide information to providers that will assist them with compliance. This will be available through regional trainings and prospective provider orientations that focus on the adult family home rules.

6) The rule-making process led to the department receiving considerable feedback on business issues. To the extent possible within the law, these issues were addressed through revisions of the rules. For example, previous versions of the rules were considerably more prescriptive regarding an emergency food and water requirement, and regarding the expectations for the development of the parking plan.

7) In some instances, the department decided to delay the filing of certain rule sections in order to allow for more study. One such delay is in the fire safety section of the rules. In the original proposed rules, there was a requirement that all adult family homes demonstrate that they can evacuate residents within five minutes if a fire erupts. The department recognizes that more study and input is needed before finalizing this rule, therefore this rule section is not being filed proposed at this time.

#### PROBABLE COSTS AND BENEFITS

In the section that follows, each proposed rule is discussed individually, and a brief explanation of the rule's probable costs and benefits is included. Also included, when appropriate, is a brief description of how the department changed the current proposed rule from earlier drafts, and how probable costs have been mitigated with respect to the particular rule. Please note, if a change was very minimal in nature, for example, renumbering of existing language or a very minor clarification, it was not included.

**WAC 388-76-550 License application—Initial and renewal.**



1) A new requirement is proposed in WAC 388-76-550(2) whereby AFH applicants who have not held an AFH license in the prior twelve months must attend department orientation to receive an initial AFH application. Please note: Present practice has been that new applicants are encouraged to, and usually do attend orientation to obtain information about licensure, prior to applying for an AFH license.

**Costs:** There will be a cost borne by AFH applicants who have not held an AFH license in the last twelve months, including travel costs to the orientation, and the cost of an applicant's time spent traveling to and attending the orientation. Because orientations are often only held monthly, there may be a delay in how soon an applicant can submit an application, thereby delaying how soon they can become licensed. In addition, department staff time will be required to prepare for and hold orientations, and the department will also assume the costs of any materials that are needed, such as copies.

**Benefits:** AFH applicants will be more informed with a more realistic understanding of the requirements of AFH providers, and there will be state-wide uniformity in how applicants receive an AFH application.

2) A clarification (which follows and is italicized) is proposed to WAC 388-76-550(6) that a married couple may not apply for *or renew* separate AFH licenses for each spouse. Please note: This is a clarification only, AFH providers have always applied for an initial license or a renewal of their current license.

3) Proposed WAC 388-76-550(7) explains that only married couples may apply for an AFH license as coproviders. Please note: Under Washington state law, spouses who want to be licensed together are considered equally responsible for the home.

**Costs:** If two unrelated individuals want to be licensed together, they will need to form an entity, and obtain a unified business identifier number (UBI) and an employer identification number (EIN) prior to submitting their AFH application. There may be costs associated with forming an entity. It costs \$15 to obtain a UBI number. There is no fee for an EIN number. It may take a short time to obtain these numbers and form an entity, so there may be a delay in how soon the AFH application can be submitted. In addition, if the applicants are found to be unqualified, they may end up forfeiting any fees they paid to form the entity or to obtain the UBI number.

**Benefits:** It is clear to the department who is legally responsible for the AFH.

**Mitigation:** Two individuals have the option of choosing to apply for a license under only one person's name.

4) Proposed WAC 388-76-550(9) explains that all entity providers must designate an individual who is responsible for the operation of the AFH.

**Costs:** There should be no additional costs associated with this requirement.

**Benefits:** When the department issues a license to an entity, they need to know who within the entity is responsible for the operation of the AFH, and this requirement makes that clear.

#### WAC 388-76-560 License eligibility—Initial and renewal.

1) A clarification (which follows and is italicized) is proposed to WAC 388-76-560(5) that AFH providers must be registered with the Department of Health (DOH) *prior* to applying for an AFH license. Please note: RCW 70.128.-120 and chapter 18.48 RCW currently require providers to be registered with DOH.

**Costs:** The cost of registration is currently incurred, just at a later time (once an applicant is licensed). Because the fee is nonrefundable, if an applicant is found ineligible for an AFH license, they will lose the \$90 fee. Obtaining DOH registration can take between 7-10 working days, thereby delaying how soon an AFH application can be submitted.

**Benefits:** This change simplifies the licensing process and ensures the provider is covered by the Uniform Disciplinary Act (UDA) once licensed. In addition, if DOH has any information that may make an applicant ineligible for registration, such as having had a health care license revoked, this is uncovered and disclosed to the department prior to AFH licensure.

2) Based on RCW 70.128.120, which was revised after the existing AFH rules became final, proposed WAC 388-76-560(6) was added which requires AFH resident managers to be registered with the Department of Health (DOH) within sixty days of hire.

**Costs:** The registration costs \$90 per year.

**Benefits:** This rule ensures AFH resident managers are covered by the Uniform Disciplinary Act (UDA) as required by law.

**Mitigation/Alternative Versions:** The previous version of the proposed rule did not allow for a sixty day time frame for registration, but many providers stated that resident managers often quit soon after hire, and asked that we allow sixty days. They stated this would help them ensure the registration fee wouldn't be wasted, since it is nontransferable and nonrefundable.

3) Proposed WAC 388-76-560(7) requires that a provider have the understanding, ability, emotional stability and physical health suited to meet the emotional and physical care needs of vulnerable adults.

**Costs:** There may be AFH applicants who are denied an AFH license based on this criterion. If the applicant chooses to appeal the department's decision, there will also be additional costs, such as time, travel, and legal fees borne by both the applicant and department staff in preparing for the hearing. A denied applicant will also lose any potential income they may have earned from the operation of the AFH.

**Benefits:** Caring for vulnerable adults is a challenging and difficult endeavor, for which everyone is not suited. This rule will aid the department in screening potential providers, thereby leading to fewer negative outcomes for consumers.

4) Proposed WAC 388-76-560(8) states that a licensed AFH may not simultaneously be licensed as a boarding home. Please note: Due to the very different licensing requirements for boarding homes and adult family homes, it has never been possible to be concurrently licensed; this rule simply makes this very clear.

5) In WAC 388-76-560 (9), (10), (11), (12), and (13), the department proposes to subject caregivers, people with

unsupervised access to residents, people who live in the home, entity responsible individuals, and resident managers, as appropriate, to the disqualifying criteria that we presently subject providers and others to.

**Costs:** There may be a small number of AFH applicants or providers who will not be eligible for licensure based on these criteria. If the applicant chooses to appeal the department's decision, there will also be additional costs (time, travel, and legal costs) borne by both the applicant and state staff in preparing for the hearing.

**Benefits:** This change gives much more rigor to the AFH licensing process by applying the disqualifying criteria uniformly to all persons involved in the AFH, and clarifies prior WACs which were inconsistent and confusing. Current rules permit persons with considerable direct contact with vulnerable adults to meet less rigorous qualifications than a provider who may have relatively little contact with residents.

6) A clarification (which follows and is italicized) is proposed to WAC 388-76-560(9), that the department shall deny, *suspend, revoke, or refuse to renew* a license if an applicant, . . . has a history of significant noncompliance . . . . Please note: This change is being made to make the language clearer and to ensure consistent application throughout this section. The department has always had the authority to suspend, revoke, or refuse to renew a license.

7) The following rules were revised or added as potential disqualifying conditions to WAC 388-76-560; subsection (12)(e) was revised to include convictions of illegal use of drugs within the past five years without evidence of rehabilitation, subsection (12)(f) was added to include convictions of the illegal selling or distribution of drugs, and subsection (12)(g) was added to include crimes involving a firearm used in the commission of a felony or an act of violence against a person.

**Costs:** There may be a very small number of AFH applicants or providers who will not be eligible for licensure based on these criteria. If the applicant chooses to appeal the department's decision, there will also [be] additional costs (time, travel, etc.) borne by both the applicant and state staff in preparing for the hearing.

**Benefits:** The disqualifying conditions listed above are all serious conditions for which the department needs to have the authority to deny, suspend, revoke, or refuse to renew an AFH license, if necessary.

**Mitigation/Alternative Versions:** It was suggested to the department that we add in language regarding rehabilitation to subsection (12)(e) and we did this; it was also suggested that we limit firearm violations to serious types of violations (as opposed to hunting violations) and we did this as well.

8) A clarification is proposed to WAC 388-76-560(13), which amends current WAC 388-76-560 (12)(g), by not applying the disqualifying criterion, stated below, to caregivers, persons living in the home, and persons having unsupervised access to residents. The criterion allows the department to consider a provider's, partner's, etc. past failures in meeting financial obligations as the obligations fell due when issuing an AFH license, if the past failures are at all related to providing care for residents. Please note: The proposed rule is a clarification of current language that was recommended to us by providers.

### WAC 388-76-570 Additional license requirements—Multiple facility providers.

1) Per RCW 70.128.065 which was added after the original AFH rules became final, WAC 388-76-570(3) was added which requires multiple facility providers to have on-site at each AFH a plan that addresses visitor parking, deliveries, and staff parking.

**Costs:** There will be a small cost associated with the time it takes to prepare this plan, although it should not take more than an hour per year to prepare this plan. This requirement only applies to providers of more than one AFH.

**Benefits:** This rule ensures multiple providers have thought through how to mitigate the potential impact of vehicular traffic related to the operation of their AFHs, as required by law.

**Mitigation/Alternative Versions:** In a prior version we required providers to submit this plan to city planning authorities for their comment within thirty days. Providers told us how problematic this would be, and we have deleted this proposed requirement.

### WAC 388-76-595 Inspections and ombudsman visits.

1) For clarification purposes only, in proposed WAC 388-76-595(2) we added that the provider shall not willfully interfere or *fail to cooperate* with department staff in the performance of official duties (italicized language is new).

**Costs:** There should be no additional costs related to this proposed language.

**Benefits:** The rule is clearer.

2) We have added to proposed WAC 388-76-595(3) that department staff must have access to specific staff records that must be kept in the AFH. Please note: These records have always had to be available to department staff via a myriad of rules; by adding this language we are hoping to make it clearer and simpler.

**Costs:** There may be a small cost associated with the time it takes to ensure the specific staff records are organized and available for department staff. For providers who keep these records off-site, there may be additional time needed to coordinate how to ensure copies of staff records are also available in the AFH.

**Benefits:** This rule clearly states what is required of the provider related to staff records. In addition, this rule will aid department staff in being able to determine whether AFH staff meet the licensing requirements.

**Mitigation/Alternative Versions:** In a prior version of this rule we did not itemize the specific staff records that would need to be available to department staff. Per suggestions from providers, we have included an itemized list.

3) In WAC 388-76-595(9) we added additional language from RCW 70.128.150 for clarifying purposes only. We also added additional language from RCW 71A.10.080 (related to the Washington Protection and Advocacy System), again, for clarifying purposes only. Please note: RCW 70.128.150 has been in effect since 1995 and RCW 71A.10.080 has been in effect since 1991.

4) Additional proposed language was added to WAC 388-76-595 (4), (5), (6), (7), and (8) to more clearly articulate the language that is currently in WAC 388-76-595(4).

**WAC 388-76-605 Restraints.**

1) WAC 388-76-605(2) currently states that the use of physical restraints for treatment of medical symptoms must be applied and directly supervised by a licensed nurse or physician. The language in the proposed rule was revised to clarify what was meant by directly supervised, replacing these words with the words immediately supervised. Immediate supervision is defined in the proposed rule to mean that the licensed nurse or physician is in the home and quickly and easily available while physical restraints are in use. Please note: Providers reportedly have not been uniform in their interpretations of the current rule regarding the definition of directly supervised, so the language was revised to be more clear. However, the requirement imposed by the change in language is consistent with the existing rules regarding the use of physical restraints. The department has historically relied on the dictionary definition of directly, which means "without intervention," which is essentially the same as "immediately supervised."

**Costs:** For those providers who had not correctly interpreted the requirement for directly supervised, this clarification will result in their having to pay for a licensed nurse or physician to directly supervise a resident whenever a physical restraint is used to treat a resident's medical symptom. However, this is not a new requirement, and, therefore, the costs of the professional staff cannot be considered costs brought about by this rule.

**Benefits:** This rule clearly states what is required of the provider to ensure that appropriate supervision is available to protect a physically restrained resident from injury or death, two outcomes that are sometimes associated with the use of physical restraints.

2) Additional language was added to WAC 388-76-605(4) to ensure that a physician (or a health care professional with prescriptive authority) is involved in any decision to diminish or eliminate the use of psychopharmacological drugs.

**Costs:** Some additional time may be required to be in consultation with a resident's physician or health care practitioner.

**Benefits:** The risk of a negative outcome to a resident is inherent if a provider who is not knowledgeable about psychopharmacological drugs tries to diminish or eliminate the use of the drug without the physician's or health care practitioner's involvement. By requiring the involvement of a resident's physician or health care practitioner, we are ensuring the appropriate use of psychopharmacological drugs.

**Mitigation/Alternative Versions:** The language that was added to this rule was recommended to us by numerous providers who were concerned about AFH providers inappropriately trying to diminish or eliminate the use of psychopharmacological drugs without a physician's or health care practitioner's involvement.

**WAC 388-76-620 Provision of services and care.**

1) New proposed language (which is italicized) was added to WAC 388-76-620(4) stating that the provider shall ensure that resident services are delivered in a manner and in an environment that . . . *ensures the safety of all residents*. Please note: A review of the rules indicated that they

do not clearly state that a provider shall ensure the safety of residents.

**Costs:** There should be no additional cost to this requirement; this is part of the care that AFH providers already provide.

**Benefits:** This rule clearly states the expectation related to resident safety.

**WAC 388-76-635 Nurse delegation—Penalties.**

1) We deleted resident manager from proposed WAC 388-76-635, which follows; the department shall impose a civil fine on any provider ~~or resident manager~~ that knowingly performs or knowingly permits an employee to perform a nursing task except as delegated by a nurse pursuant to chapter 18.79 RCW and chapter 246-840 WAC. Please note: This deletion was made based upon the advice of the department's assistant attorney general, who stated that the department only has authority to impose civil fines on providers, not on employees of providers.

**Costs:** This is a clarifying change which should have no additional cost associated with it.

**Benefits:** By revising this rule, it is clear that the provider is ultimately responsible for nurse delegation violations that may occur in their AFH.

**WAC 388-76-655 General management and administration.**

1) New language was proposed in WAC 388-76-655 (2)(d) stating that the provider shall be available to respond to resident needs and caregiver inquiries within a reasonable time frame, and in the event a provider is unavailable, for example, on vacation, a person must be designated to respond on behalf of the provider.

**Costs:** There should be no additional cost associated with this proposed rule as this is simply a clarification of current expectation.

**Benefits:** The expectation that a provider is available to meet resident and caregiver needs is stated clearly.

**Mitigation/Alternative Versions:** In a previous version of the proposed rules, many providers told us that the language was not detailed enough, nor did it accommodate providers who may be unavailable (e.g., on vacation). Based on the providers' advice the proposed rule has been revised.

2) A section regarding liability insurance to cover damage or loss to a resident's property was deleted in proposed WAC 388-76-655(3). Please note: This type of insurance is not available under a professional liability insurance policy and is therefore being deleted.

3) New language (which is italicized) was added to proposed WAC 388-76-655 (5)(c) stating that the provider shall ensure that caregivers (and others) not engage in the illegal use of drugs or the excessive use of alcohol *when providing care to residents*.

**Costs:** There should be no additional costs of this addition.

**Benefits:** This rule protects residents from receiving care from a caregiver who is under the influence of alcohol or drugs.

**Mitigation/Alternative Versions:** This language was recommended to us by numerous providers who stated that they only have control over employees when they are working in the adult family home, and that it is not possible for providers to ensure that caregivers do not engage in the

illegal use of drugs or the excessive use of alcohol on their own time.

4) Additional language was added to proposed WAC 388-76-655 (5)(d) noting that caregivers who do not have a first aid/CPR card may provide care to residents as long as they are supervised by a caregiver who has a valid first aid/CPR card.

Costs: There should be no additional costs related to this rule revision.

Benefits: This rule revision should provide more flexibility to providers by allowing them to hire caregivers who have not yet obtained their first aid/CPR card, yet still ensures protection for residents.

Mitigation/Alternative Versions: In an earlier version of these rules we had required that caregivers have a valid first aid/CPR card prior to providing care for residents. Many providers requested that we add the above language, as it sometimes takes a short while before newly hired caregivers can obtain their first aid/CPR cards.

5) New clarifying language, which follows, was added to proposed WAC 388-76-655 (6) and (7);

(6) The provider shall ensure that:

(a) There is at least one caregiver present in the home whenever one or more residents are on the premises;

(b) The caregiver referred to under (a) is capable of understanding and speaking English well enough to be able to respond appropriately to emergency situations; and

(c) At least one caregiver is accessible by phone or beeper for emergencies when there are no residents on the homes' premises.

(7) An adult family home shall be exempt from subsection (6)(a) of this section if:

(a) The home provides care to residents whose primary disabilities are developmental disabilities as defined by WAC 388-76-590 (3)(a); and

(b) It is determined and documented in a resident's current negotiated care plan that the resident is capable and willing to be left alone unsupervised in the adult family home during normal awake hours. The rule currently says that the provider shall ensure that there is at all times on the premises at least one caregiver who is literate and capable of understanding written and oral instructions communicated in English in order to be able to respond appropriately to emergency situations.

Costs: There should be no additional costs related to this rule addition, as the proposed rules are much more flexible than the current rule.

Benefits: This rule revision should provide more flexibility to providers by not requiring caregivers to be present when there are no residents in the AFH. In addition, the rules now accommodate AFHs that provide care to developmentally disabled residents that can be left alone. The proposed rules also try to better define what is meant by literate.

Mitigation/Alternative Versions: The current rules require a caregiver to be present at all times. A prior proposed version required the caregiver who was present to have completed the required fundamentals or modified fundamentals of caregiving training before being left alone with residents (normally, caregivers have 120 days to complete the training). In addition, no exclusion was made for homes serving developmentally disabled residents who

can be left alone. Based on provider recommendations, we revised the rules as noted above.

#### **WAC 388-76-660 Training.**

1) A minor revision (which is italicized) was made to WAC 388-76-660(3) allowing a caregiver who *is has successfully completed training* as a registered nurse, licensed nurse etc. to take the shorter Modified Fundamentals of Caregiving training.

Costs: There should be no additional costs associated with this revision.

Benefits: This should provide some flexibility for caregivers who have completed a specific training, but who may have let a license lapse, in that they can now take the shorter caregiver training class.

2) Proposed WAC 388-76-660(4) allows caregivers to take a challenge test in lieu of attending required caregiver training classes.

Costs: There should be no additional cost associated with this new language.

Benefits: All caregivers will have the option of taking the challenge test versus spending 10 - 22 hours in the required training class. For experienced caregivers or for providers who train their caregivers themselves, this can result in a great saving of time and money. For caregivers in areas of the state with limited availability of the training classes, this provides a great deal more flexibility in meeting the AFH caregiver training requirements.

#### **WAC 388-76-665 Resident records.**

1) We have added new language in proposed WAC 388-76-665(3) that states caregivers must have access to resident records when information in those records is needed to provide care.

Costs: For providers who kept resident records inaccessible to caregiving staff, there may be a small cost associated with the time it takes to ensure that resident records are now available to caregiving staff.

Benefits: This rule makes it very clear that caregivers must have access to resident records when the information in those records is needed to provide care.

#### **WAC 388-76-670 Disaster and emergency preparedness.**

1) We have revised language in proposed WAC 388-76-670(4) to require providers to state in their disaster and emergency plans and procedures how they will be able to provide residents and household members with 72-hours of food, accommodating any specific food needs, and 3 gallons of water per person in an emergency. The rules currently state that the provider shall maintain a 72-hour food and water supply for emergencies.

Costs: There will be a cost associated with the time it takes a provider to add to their disaster and emergency plans and procedures how they plan to provide food and water to residents in the case of an emergency or disaster. Because the rules currently require a 72-hour food and water supply, there should be minimal costs incurred related to actually organizing the emergency food and water supply.

Benefits: This rule ensures AFHs will be able to meet resident's food and water needs in case of an emergency or disaster, and yet is flexible in that it allows providers to determine how they are going to do this.

**Mitigation/Alternative Versions:** The first proposed version of these rules required a 72-hour food and water supply that was separate from the home's normal food and water supply. Many providers told us this approach was not very practical and was too subjective. Based on provider input, the rules were revised as noted above.

#### **WAC 388-76-675 Reporting requirements.**

1) Some minor (mostly clarifying) changes are proposed in this section, including: Adding caregivers to those who must notify the department's complaint telephone number in case of alleged resident abuse, neglect, exploitation, or abandonment; better defining what needs to be recorded in a resident accident/injury log; and adding that a provider need to notify certain individuals when a resident is determined to be missing.

**Costs:** There should be no additional costs associated with any of the above changes.

**Benefits:** These changes state more clearly the requirements related to reporting requirements.

**Mitigation/Alternative Versions:** In an earlier proposed version of these rules, we required the provider to investigate any incidents involving allegations of resident abuse, neglect, exploitation, or abandonment. A number of providers told us that they did not think it was appropriate that they be required to investigate allegations of resident abuse, neglect, exploitation, or abandonment; that this was better left to trained department staff. Based on their input, that requirement was deleted from the proposed rules.

#### **WAC 388-76-680 Infection control and communicable disease.**

1) There are a number of changes proposed to this section to more accurately reflect current standards related to infection control and communicable diseases, specifically tuberculosis (TB).

**Costs:** The proposed rules require a repeat TB test for all staff (the current rules require a repeat test only for staff 35 years or older). Local health departments usually charge a fee for TB screening tests of between \$7.00 - \$12.00. In addition, there may be costs associated with the time it takes to have the second test done, and with the transportation costs required to get to a clinic that performs the screening test.

**Benefits:** These changes more accurately reflect current standards of practice and will help prevent the spreading of communicable diseases.

#### **WAC 388-76-685 Criminal history disclosure and background inquiries.**

1) A number of clarifying changes are proposed in this section, including adding language to WAC 388-76-685(5) specifying that criminal history background inquiry results are only valid for two years, therefore requiring submission of a new background every two years.

**Costs:** It will take some additional time on behalf of the AFH provider to ensure backgrounds are submitted every two years. In addition, it will take time for anyone in the AFH who is required to have a background run (for example, caregivers, household members, etc.) to complete the one page background form. At present, the cost to the department of completing each background check is \$2.37, which includes staff salaries and benefits, Washington State

Patrol (WSP) modem line, and related supplies. (It is anticipated that the cost to the department of completing a background check should decrease due to planned technological changes with the WSP.) Please note: Many providers already submit background forms every two years, thereby this change will have less impact than it otherwise might have.

**Benefits:** This two year time limit is the Washington State Patrol (WSP) standard. There is often a backlog from the time an individual is convicted of a crime, to the time that same conviction is entered into the WSP database. Therefore, an individual may have no formal record when the department initially runs the background, even though they have been convicted of a crime. In addition, the WSP estimates that it takes two years to be charged and convicted of a crime; an individual may commit and/or be convicted of a crime after the department runs the initial background check. There is a much better chance of getting accurate results if background checks are run every two years.

#### **WAC 388-76-690 Advance directives, guardianship and decision making.**

1) A clarifying change is being made to proposed WAC 388-76-690(4) to allow a provider to be a resident's guardian, if the guardianship is authorized by a court order. The rules presently do not allow for a provider to be a resident's guardian. Please note: There is a section in the guardianship law, RCW 11.92.040(6) that allows for a provider to be a resident's guardian; the rules need to be revised to reflect this provision in the law.

**Costs:** There will be some costs related to seeking a court order under RCW 11.92.040(6), mostly related to court and legal fees.

**Benefits:** This change allows for more flexibility and complies with the guardianship law.

#### **WAC 388-76-705 Remedies.**

1) A number of clarifying changes are being proposed in the remedies section to more clearly articulate when the department will take an enforcement action and/or impose a remedy.

**Costs:** These are clarifying changes only; there should not be any additional costs related to these revisions.

**Benefits:** The proposed rules more clearly articulate when the department will take an enforcement action and/or impose a remedy.

#### **CONCLUSION**

**What are the consequences of not adopting the rule?** The department believes these rule revisions will make the rules clearer, more easily understood, and more reflective of practices that are currently in place. Not adopting these rules will leave in place existing rules that are unclear and not reflective of current statutes and standards.

**Are these rules the least burdensome alternative (that will achieve the goals and objectives of the statute) for those required to comply with them?** After considerable review, the department has concluded these rules are the least burdensome alternative that will achieve the goals and objectives of the statute.

**Do the probable benefits of the proposed rules outweigh the probable costs?** After considerable review,

the department has concluded the probable benefits of these proposed rules outweigh the probable costs.

A copy of the statement may be obtained by writing to Carole Campbell, Residential Care Services, P.O. Box 45600, Olympia, WA 98504-5600, phone (800) 422-3263 or (360) 493-2631, or FAX (360) 438-7903.

RCW 34.05.328 applies to this rule adoption. Because these proposed rules are considered significant legislative rules, RCW 34.05.328 applies. To obtain a copy of the cost benefit analysis contact Carole Campbell at the address and phone number listed above.

Hearing Location: OB-2 Auditorium, 1115 Washington Street S.E., Olympia, WA 98504, on March 10, 1998, at 10:00 a.m.; and at Spokane Community College, 1810 North Green Street, Lair Building #6 (Sasquatch Room), Spokane, WA 99207-5399, on March 17, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by March 9, 1998, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to and Identify WAC Numbers: Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by March 17, 1998.

Date of Intended Adoption: No sooner than March 18, 1998.

January 6, 1998

Merry A. Kogut, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 96-14-003, filed 6/19/96, effective 7/20/96)

**WAC 388-76-540 Definitions.** ~~((1))~~ **"Abandonment"** means action or inaction by a person or entity with a duty of care for a frail elder or vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

~~((2))~~ **"Abuse"** means a nonaccidental act of physical or mental mistreatment or injury, or sexual mistreatment, which harms a person through action or inaction by another individual.

~~((3))~~ **"Adult family home"** means the same as the definition in RCW 70.128.010.

~~((4))~~ **"Applicant"** means an individual, partnership, corporation, or other entity seeking a license to operate an adult family home.

~~((5))~~ **"Capacity"** means the maximum number of persons in need of personal or special care permitted in an adult family home at a given time. This number shall include related children or adults in the home who receive special care.

~~((6))~~ **"Caregiver"** means any person eighteen years of age or older responsible for providing direct personal care to a resident and may include but is not limited to the provider, resident manager, employee, relief caregiver, volunteer, student, entity responsible individual, or household member.

~~((7))~~ **"Case manager"** means the department staff person or designee assigned to negotiate, monitor, and facilitate a service plan for residents receiving services fully or partially paid for by the department.

~~((8))~~ **"Chemical restraint"** means a psychopharmacologic drug that is used for discipline or convenience and not required to treat the resident's medical symptoms.

~~((9))~~ **"Department"** means the Washington state department of social and health services.

~~((10))~~ **"Entity provider"** means any corporation, partnership, association, or limited liability company that is licensed under this chapter to operate an adult family home.

~~((11))~~ **"Entity responsible individual"** means the individual an entity provider designates who is ultimately responsible for the daily operation of the adult family home.

"Exploitation" means the illegal or improper use of a frail elder or vulnerable adult or that person's income or resources, including trust funds, for another person's profit or advantage.

~~((12))~~ **"Frail elder or vulnerable adult"** means the same as the definition in RCW 74.34.020 or RCW 43.43.830.

~~((13))~~ **"Individual provider"** means a natural person who is licensed to operate an adult family home.

~~((14))~~ **"Inspection"** means an on-site visit by department personnel to determine the adult family home's compliance with this chapter and chapter 70.128 RCW, Adult family homes.

~~((15))~~ **"Multiple facility provider"** means an individual or entity provider who is licensed to operate more than one adult family home.

~~((16))~~ **"Neglect"** means a pattern of conduct or inaction resulting in deprivation of care necessary to maintain a resident's physical or mental health.

~~((17))~~ **"Nursing assistant"** means the same as the definition in chapter 18.88A RCW.

~~((18))~~ **"Personal care services"** means both physical assistance and/or prompting and supervising the performance of direct personal care tasks as determined by the resident's needs as defined in WAC 388-15-202~~((38))~~, Long-term care services—Definitions. Personal care services do not include assistance with tasks performed by a licensed health professional.

~~((19))~~ **"Physical restraint"** means a manual method, obstacle, or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that restricts freedom of movement or access to his or her body, is used for discipline or convenience, and not required to treat the resident's medical symptoms.

~~((20))~~ **"Provider"** means any person or entity that is licensed under this chapter to operate an adult family home.

~~((21))~~ **"Resident"** means any adult unrelated to the provider who lives in the adult family home and who is in need of care. **"Resident"** includes former residents when examining complaints about admissions, readmissions, transfers or discharges. For decision-making purposes, the term "resident" includes the resident's surrogate decision maker in accordance with state law or at the resident's request.

~~((22))~~ **"Resident manager"** means a person employed or designated by the provider to manage the adult family home.

~~((23))~~ **"Special care"** means care beyond personal care services as defined by ~~((subsection (18) of))~~ "personal care services" in this section.

~~((24))~~ **"Unsupervised"** means the same as the definition in RCW 43.43.830(8).

**AMENDATORY SECTION** (Amending WSR 96-14-003, filed 6/19/96, effective 7/20/96)

**WAC 388-76-550 License application—Initial and renewal.** (1) All applications for adult family home licensure or renewal are subject to review under this chapter.

~~(2) ((To apply for an adult family home license, an applicant shall complete and submit a license application on department provided forms at least sixty days before the requested effective date of that license))~~ Persons who have not held an adult family home license within the last twelve months must attend department orientation to receive an initial adult family home application.

(3) To apply for an initial adult family home license, an applicant shall complete and submit the department designated application form providing all information necessary, including information regarding any facilities and homes for the care or provision of services to children or vulnerable adults that the applicant is or has been affiliated with in the last ten years, so the department can determine whether the applicant meets all applicable qualifications and requirements. An entity shall provide this information with regard to any partner, officer, director, managerial employee, or owner of five percent or more of the entity applicant.

(4) For renewal of an adult family home license, the provider shall complete and submit a renewal application on department provided forms at least sixty days before the current license's expiration date. The license must be renewed annually to remain valid.

~~((4) The applicant shall complete the department designated application form providing all information necessary, including information regarding any facilities and homes for the care or provision of services to children or vulnerable adults that the applicant is or has been affiliated with in the last ten years, so the department can determine whether the applicant meets all applicable qualifications and requirements. An entity shall provide this information with regard to any partner, officer, director, managerial employee, or owner of five percent or more of the entity applicant.))~~

(5) All entity providers shall include their Unified Business Identifier (UBI) and Federal Employer Identification (FEI) numbers on the application.

(6) Married couples may not apply for or renew separate adult family home licenses for each spouse.

(7) Couples legally married under Washington state law are the only individuals who may apply jointly for an adult family home license as co-providers. Two unmarried individuals applying for an adult family home license to be held jointly must become an entity provider by legally forming a corporation, partnership, association, or limited liability company.

(8) The license applicant shall be the person or entity ultimately responsible for the daily operation of the adult family home. The license applicant or the applicant's authorized representative shall sign the adult family home license or renewal application.

~~((8))~~ (9) All entity providers shall designate an individual on their adult family home application who is ultimately responsible for the operation of the adult family

home, this person will hereafter be referred to as the entity responsible individual. Entity providers shall immediately notify their licensor when there is a change in the entity responsible individual.

(10) An applicant who enters into a lease or contractual agreement with a landlord who takes an active interest in the operation of the adult family home, shall include the landlord's name and address on the license or renewal application. Active interest includes but is not limited to:

- (a) The charging of rent as a percentage of the business;
- (b) Assistance with start up and operational expenses;
- (c) Collection of resident fees;
- (d) Recruitment of residents;
- (e) Management oversight;
- (f) Assessment and negotiated ~~((service))~~ care plan development for residents; or

(g) The provision of personal or special care to residents.

~~((9))~~ (11) The department shall not commence review of an incomplete license or renewal application, and incomplete applications shall become void sixty days following the department's written request for additional documentation or information to complete the application.

~~((10))~~ (12) An adult family home license shall be valid for up to one year.

**AMENDATORY SECTION** (Amending WSR 96-14-003, filed 6/19/96, effective 7/20/96)

**WAC 388-76-560 License eligibility—Initial and renewal.** (1) The department shall consider separately and jointly as applicants each person and entity named in an application for an adult family home license. If the department finds any person or entity unqualified, the department shall deny the license.

(2) In making a determination whether to grant an adult family home license, the department shall review:

- (a) The information in the application; and
- (b) Other documents and information the department deems relevant, including inspection and complaint investigation findings in each facility or home for the care or provision of services to children or vulnerable adults with which the applicant or any partner, officer, director, managerial employee, or owner of five percent or more of the entity applicant is or has been affiliated.

(3) The applicant and the home for which the license is sought shall comply with all requirements established by chapter 70.128 RCW and this chapter. The department may deny a license for noncompliance with any such requirements.

(4) An individual provider shall be twenty-one years of age or older ~~((and all providers shall be registered with the department of health as required by RCW 70.128.120)).~~

(5) All providers shall be registered with the department of health as required by RCW 70.128.120, prior to applying for an adult family home license.

(6) Each resident manager shall register with the department of health as required by RCW 70.128.120, within sixty days of being designated as an adult family home resident manager.

(7) A provider shall have the understanding, ability, emotional stability and physical health suited to meet the emotional and physical care needs of vulnerable adults.

(8) An adult family home shall not simultaneously be licensed as a boarding home.

(9) The department shall deny, suspend, revoke, or refuse to renew a license if an applicant or any partner, officer, director, managerial employee, entity responsible individual, resident manager or owner of five percent or more of the entity applicant has a history of significant noncompliance with federal or state regulations in providing care or services to vulnerable adults or children. The department shall consider, at a minimum, the following as a history of significant noncompliance requiring denial of a license:

(a) Revocation or suspension of a license for the care of children or vulnerable adults;

(b) Enjoined from operating a facility for the care of children or adults; or

(c) Revocation, cancellation, suspension, or nonrenewal of a Medicaid or Medicare provider agreement, or any other agreement with a public agency for the care or treatment of children or vulnerable adults.

~~((6))~~ (10) The department may deny, suspend, revoke, or refuse to renew a license if any person who is a caregiver, any person who has unsupervised access to residents, or any person who lives in the home but who is not a resident, meets any of the criteria defined under subsection (9) of this section.

(11) The department shall deny, suspend, revoke, or refuse to renew a license if an applicant, any person who is a caregiver, any person who has unsupervised access to residents, or any person who lives in the home but who is not a resident or any partner, officer, director, managerial employee, entity responsible individual, resident manager, an owner of fifty percent or more of the entity applicant, or an owner who exercises control over daily operations has been:

(a) Convicted of a crime against a person as defined under RCW 43.43.830 or RCW 43.43.842;

(b) Convicted of a crime relating to financial exploitation as defined under RCW 43.43.830 or RCW 43.43.842;

(c) Found by a court in a protection proceeding under chapter 74.34 RCW to have abused or financially exploited a vulnerable adult;

(d) Found in any final decision issued by a disciplinary board to have sexually or physically abused or exploited any minor or a person with a developmental disability or to have abused or financially exploited any vulnerable adult;

(e) Found in any dependency action under RCW 13.34.030 (2)(b) to have sexually ~~(assaulted)~~ abused or exploited any minor or to have physically abused any minor; or

(f) Found by a court in a domestic relations proceeding under Title 26 RCW to have sexually abused or exploited any minor or to have physically abused any minor.

~~((7) The department shall deny, suspend, revoke, or refuse to renew a license if any person who lives in the home or who has unsupervised access to residents meets any of the criteria defined under subsection (6) of this section.~~

(8)) (12) The department may deny, suspend, revoke, or refuse to renew a license if an applicant, any person who is a caregiver, any person who has unsupervised access to

residents, or any person who lives in the home but who is not a resident, or any partner, officer, director, managerial employee, entity responsible individual, resident manager, an owner of fifty percent or more of the entity applicant, or an owner who exercises control over daily operations has:

(a) Obtained or attempted to obtain a license by fraudulent means or misrepresentation;

(b) Permitted, aided, or abetted the commission of any illegal act on the adult family home premises;

(c) Been convicted of a felony or a crime against a person if the conviction reasonably relates to the competency of the person to own or operate an adult family home;

(d) Had sanction, corrective, or remedial action taken by federal, state, county, or municipal health or safety officials related to the care or treatment of children or vulnerable adults;

(e) Engaged in or been convicted of the illegal use of drugs or the excessive use of alcohol within the past five years without evidence of rehabilitation;

(f) Been convicted of the illegal selling or distribution of drugs;

(g) Been convicted of any crime involving a firearm used in the commission of a felony or in an act of violence against a person;

(h) Operated a facility for the care of children or adults without a license;

~~((g) Failed to meet financial obligations as the obligations fell due in the normal course of business;~~

~~((h)) (i) Misappropriated property of residents;~~

~~((i)) (j) Been denied a license or license renewal to operate a facility that was licensed for the care of children or vulnerable adults;~~

~~((j)) (k) Relinquished or returned a license in connection with the operation of any facility for the care of children or vulnerable adults, or did not seek the renewal of such license, following written notification of the licensing agency's initiation of denial, suspension, cancellation or revocation of the license;~~

~~((k)) (l) Had resident trust funds or assets of an entity providing care to children or vulnerable adults seized by the IRS or a state entity for failure to pay income or payroll taxes;~~

~~((l)) (m) Refused to permit authorized department representatives to interview residents or have access to resident records;~~

~~((m)) (n) Interfered with a long term care ombudsman in the performance of his or her official duties; ~~(or~~~~

~~((n)) (o) Exceeded licensed capacity in the operation of an adult family home; or~~

(p) Been found by the court in a proceeding under Title 26 RCW to have committed an act of domestic violence toward a family or household member.

~~((9)) (13) The department may deny, suspend, revoke, or refuse to renew a license if an applicant, provider or any partner, officer, director, managerial employee, entity responsible individual, resident manager, an owner of fifty percent or more of the entity applicant, or an owner who exercises control over daily operations failed to meet financial obligations as the obligations fell due in the normal course of business, thereby impeding his/her ability to care for residents.~~



(14) The department shall deny or refuse to renew an adult family home license to an applicant who is licensed to care for children in the same home unless:

(a) It is necessary in order to allow a resident's child(ren) to live in the same home as the resident or to allow a resident who turns eighteen to remain in the home;

(b) The applicant provides satisfactory evidence to the department of the home's capability to meet the needs of children and adults residing in the home; and

(c) The total number of persons receiving care in the home does not exceed the number permitted by the licensed capacity of the adult family home.

~~((10))~~ (15) The department's renewal of a license does not preclude the department from taking any action under WAC 388-76-705 based on inspection.

**AMENDATORY SECTION** (Amending WSR 96-14-003, filed 6/19/96, effective 7/20/96)

**WAC 388-76-570 Additional license requirements—Multiple facility providers.** (1) The department shall not issue a license to a provider to operate more than one adult family home unless:

(a) The applicant has operated an adult family home for at least one year in this state without any significant violation of the rules of this chapter; or

(b) The applicant has submitted evidence demonstrating that it has the capability to operate multiple adult family homes.

(2) An applicant that is applying to be licensed for more than one adult family home shall submit to the department for each adult family home:

(a) A twenty-four hour per day, seven days per week, staffing plan; and

(b) A plan for covering administrative responsibilities.

(3) Multiple facility providers shall have on-site at each adult family home a plan that addresses visitor parking, deliveries, and staff parking.

(4) The department may consider the applicant's credit history in determining whether to license the applicant for more than two adult family homes, when the department determines the credit history relates to an applicant's ability to provide care and services to vulnerable adults.

~~((4))~~ (5) When operating two or more adult family homes, ~~((a))~~ the individual provider or entity responsible individual shall successfully complete forty-eight hours of residential care administrator's training, including training in at least the following areas:

(a) Business planning and marketing;

(b) Fiscal planning and management;

(c) Human resource planning;

(d) Resident health services;

(e) Nutrition and food service;

(f) Working with people who are elderly, chronically mentally ill, or developmentally disabled;

(g) The licensing process;

(h) Social and recreational activities;

(i) Resident rights;

(j) Legal issues;

(k) Physical maintenance and fire safety; and

(l) Housekeeping.

~~((5)) A provider who is operating more than one adult family home prior to the effective date of this chapter, shall have until June 1, 1997 to complete the residential care administrator's training.)~~

(6) A provider who applies for a license to operate more than one adult family home on or after ~~((the effective date of this chapter))~~ July 20, 1996, shall complete the residential care administrator's training prior to operating more than one family home.

**AMENDATORY SECTION** (Amending WSR 96-14-003, filed 6/19/96, effective 7/20/96)

**WAC 388-76-595 Inspections and ombudsman visits.**

(1) The department shall conduct unannounced inspections and complaint investigations to determine the provider's compliance with this chapter and chapter 70.128 RCW.

(2) The provider shall ensure that department staff have access to the home, residents, and all resident records therein and shall not willfully interfere or fail to cooperate with department staff in the performance of official duties.

(3) Department staff shall have access to relevant staff records which must be kept in the adult family home. Relevant staff records include: Criminal history background inquiries; tuberculosis test documentation; CPR-First aid cards; department of health registration; fundamentals of caregiving, modified fundamentals of caregiving, nurse delegation and continuing education certificates; and any other special certificates.

(4) Within ten calendar days of the inspection of the adult family home, the department's inspection report shall be mailed or hand delivered to the provider.

(5) Within ten calendar days of the completion of complaint investigation data collection, any department inspection report related to a complaint investigation shall be mailed or hand delivered to the provider.

(6) A provider shall submit to the department the planned corrective measures for violations and/or deficiencies within ten calendar days of receipt of a statement of deficiencies or an inspection report.

(7) The department shall make department inspection reports available to the public immediately following the department's decision to summarily suspend or revoke an adult family home license.

(8) The department shall make department inspection reports available to the public following receipt of the provider's planned corrective measures or ten calendar days after the provider received the inspection report, whichever comes first. The department shall include the statement of the provider's planned corrective measures with the department's inspection report.

(9) The adult family home shall not willfully interfere with a representative of the Washington protection and advocacy system as defined under RCW 71A.10.080 or the long term care ombudsman in the performance of official duties, as defined under chapter 43.190 RCW, Long-term care ombudsman program and under federal law. The department shall impose a penalty of not more than one thousand dollars for any such willful interference with a representative from the long-term care ombudsman program.

~~((4)) The department's inspection report shall be mailed to the provider and made available to the public within ten~~

~~working days of the inspection of the adult family home. If a provider gives the department a plan of correction for deficiencies, the department shall include a statement of the provider's planned corrective measures in the department's inspection report.)~~

**AMENDATORY SECTION** (Amending WSR 96-14-003, filed 6/19/96, effective 7/20/96)

**WAC 388-76-605 Restraints.** (1) The resident has the right to be free from physical and chemical restraint and involuntary seclusion.

(2) Adult family homes are prohibited from using any and all forms of physical restraint that are used for the purposes of discipline or convenience and are not required to treat the resident's medical symptoms. Treatment of such medical symptoms must be applied and ~~(directly)~~ immediately supervised on-site by a licensed registered nurse (RN), licensed practical nurse (LPN) or a licensed physician. Immediate supervision means the licensed registered nurse, the licensed practical nurse, or the licensed physician is in the home and quickly and easily available.

(3) The provider shall ensure that the resident is free from chemical restraints which are:

- (a) Used for discipline or convenience; and
- (b) Not required to treat the resident's medical symptoms.

(4) In any situation where a psychopharmacological drug is used for the resident, the provider shall ensure:

(a) That it is not used for the purpose of discipline or convenience;

(b) That it has been prescribed by a physician or health care professional with prescriptive authority who has assessed the resident;

(c) That only with a physician's or health care professional with prescriptive authorities' approval, shall the resident's negotiated ((service)) care plan provide((s)) strategies and approaches to diminish or eliminate use of the psychopharmacological drug, where possible; and

(d) The resident or surrogate decision maker has given informed consent for its use.

**AMENDATORY SECTION** (Amending WSR 96-14-003, filed 6/19/96, effective 7/20/96)

**WAC 388-76-620 Provision of services and care.** (1) The provider shall ensure that the resident receives necessary services and care to promote the most appropriate level of physical, mental, and psychosocial well-being consistent with resident choice.

(2) The provider shall encourage and promote resident participation in service planning and delivery.

(3) The provider shall respect the resident's right to decide negotiated ~~((service))~~ care plan goals and treatment choices, including acceptance or refusal of service plan recommendations.

(4) The provider shall ensure that resident services are delivered in a manner and in an environment that:

(a) Promotes maintenance or enhancement of each resident's quality of life; ~~((and))~~

- (b) Ensures the safety of all residents; and

(c) Reasonably accommodates the resident's individual needs and preferences, except when the health or safety of the resident or other residents would be endangered.

(5) The provider shall ensure that appropriate professionals provide needed services to the resident based upon the resident's assessment and negotiated ~~((service))~~ care plan.

**AMENDATORY SECTION** (Amending WSR 96-14-003, filed 6/19/96, effective 7/20/96)

**WAC 388-76-635 Nurse delegation—Penalties.** The department shall impose a civil fine on any provider ~~((or resident manager))~~ that knowingly performs or knowingly permits an employee to perform a nursing task except as delegated by a nurse pursuant to chapter 18.79 RCW and chapter 246-840 WAC as follows:

(1) Two hundred fifty dollars for the first time the department finds an unlawful delegation;

(2) Five hundred dollars for the second time the department finds an unlawful delegation; and

(3) One thousand dollars for the third time or more the department finds an unlawful delegation.

**AMENDATORY SECTION** (Amending WSR 96-14-003, filed 6/19/96, effective 7/20/96)

**WAC 388-76-655 General management and administration.** (1) The provider shall not admit or retain any resident whose needs the provider cannot meet.

(2) The provider shall ensure all of the following:

(a) That staff are competent, and receive necessary training to perform assigned tasks;

(b) The adult family home is in compliance with the requirements of this chapter and other applicable state laws; ~~((and))~~

(c) The home employs sufficient staff to meet the needs of the residents; and

(d) That he/she is available to respond to resident needs and caregiver inquiries within a reasonable time frame. In the event a provider is unavailable, for example, on vacation, a person must be designated to respond on behalf of the provider.

(3) The provider shall maintain liability insurance of at least one hundred thousand dollars per occurrence to cover:

(a) ~~((Damage or loss of the resident's property; and (b)))~~ Injury or harm to the resident resulting from:

(i) The provision of services or failure to provide needed services; or

(ii) Incidents occurring in the adult family home or on the home's premises.

(4) ~~((A provider who operates only one adult family home shall have evidence of the insurance coverage required by subsection (3) of this section beginning January 1, 1997. (5)))~~

(5) The provider shall ensure that all caregivers are at least eighteen years of age or older.

~~((6))~~ (5) The provider shall ensure that the provider ~~((or)),~~ entity responsible individual, resident manager and all caregivers:

(a) Are able to communicate or make provisions for communicating with the resident in his or her primary language;

(b) Have a clear understanding of job responsibilities and knowledge of residents' negotiated (~~(service)~~) care plans in order to be able to provide care specific to each resident's needs;

(c) Not engage in the illegal use of drugs or the excessive use of alcohol when providing care to residents; and

(d) Possess a valid first aid and CPR card prior to providing care for residents unless such care is directly supervised by a fully qualified caregiver who has a valid first aid and CPR card.

~~((7) The provider shall ensure that there is at all times on the premises at least one caregiver who is literate and capable of understanding written and oral instructions communicated in English in order to be able to respond appropriately to emergency situations))~~ (6) The provider shall ensure that:

(a) There is at least one caregiver present in the home whenever one or more residents are on the premises;

(b) The caregiver referred to in (a) of this subsection is capable of understanding and speaking English well enough to be able to respond appropriately to emergency situations; and

(c) At least one caregiver is accessible by phone or beeper for emergencies when there are no residents on the homes' premises.

(7) An adult family home shall be exempt from subsection (6)(a) of this section if:

(a) The home provides care to residents whose primary disabilities are developmental disabilities as defined by WAC 388-76-590 (3)(a); and

(b) It is determined and documented in a resident's current negotiated care plan that the resident is capable and willing to be left alone unsupervised in the adult family home during normal awake hours.

**AMENDATORY SECTION** (Amending WSR 96-14-003, filed 6/19/96, effective 7/20/96)

**WAC 388-76-660 Training.** (1) Before operating and providing services in an adult family home, individual providers, entity responsible individuals and resident managers shall successfully complete the department's:

(a) Fundamentals of caregiving training; or

(b) Modified fundamentals of caregiving training if they meet the requirements listed in subsection (3) of this section.

(2) Providers shall ensure that:

(a) All caregivers hired in the adult family home on or after ~~((the effective date of this chapter))~~ July 20, 1996 successfully complete the department designated fundamentals of caregiving training within one hundred twenty days of employment, unless he or she meets the requirements in subsection (3) below; and

~~(b) ((All caregivers hired in the adult family home prior to the effective date of this chapter successfully complete the department designated fundamentals of caregiving training prior to March 1, 1997, unless he or she meets the requirements in subsection (3) below; and~~

(e)) All caregivers complete a minimum of ten hours of continuing education credits per calendar year, on topics relevant to caregiving:

(i) Topics include, but are not limited to residents' rights, personal care, dementia, mental illness, developmental

disabilities, depression, medication assistance, communication skills, alternatives to restraints, and activities for residents;

(ii) Caregivers must receive 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) The continuing education requirement begins the calendar year after the year in which the caregiver completes the fundamentals or modified fundamentals of caregiving training.

(3) A caregiver who ~~((is))~~ has successfully completed training as a registered or licensed practical nurse, a physical or occupational therapist, a nursing assistant certified, a home health aid from a Medicare certified home health agency, 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, or who is a resident manager or provider prior to ~~((the effective date of this chapter))~~ July 20, 1996, is exempt from the fundamentals of caregiving training in subsection (2) of this section if the caregiver successfully completes the department designated modified fundamentals of caregiving training in accordance with the dates specified in subsection (2) of this section.

(4) Caregivers are exempt from attending the fundamentals of caregiving or modified fundamentals of caregiving trainings if they successfully pass the department's challenge test for the class they are required to take. The caregiver has only one opportunity to successfully pass the challenge test then he/she must attend the fundamentals of caregiving or modified fundamentals of caregiving trainings as required.

(5) Volunteers are exempt from the training requirements listed above unless they provide unsupervised direct personal care to residents.

~~((5))~~ (6) The provider shall document that caregivers have met the education and training requirements.

**AMENDATORY SECTION** (Amending WSR 96-14-003, filed 6/19/96, effective 7/20/96)

**WAC 388-76-665 Resident records.** (1) The provider or resident manager shall:

(a) Keep confidential all information contained in the resident's records, regardless of the form or storage method of the records (e.g., computer files); and

(b) Protect information in the resident's record against alteration, loss, destruction, and unauthorized use.

(2) The provider or resident manager shall release information from the resident's record when required by:

(a) The resident's transfer to a health care institution;

(b) Law;

(c) Representatives of the department when acting in accordance with state law; or

(d) The resident.

(3) The provider shall ensure that caregivers in the home have access to resident records when information in those records is needed to provide care.

(4) The provider shall retain the resident's record for three years following the resident's discharge or death.

~~((4))~~ (5) The adult family home shall ensure that the resident's record includes at least the following:

(a) Resident identification including the name, address, and telephone number of the person or persons the resident designates as significant;

(b) The name, address, and telephone numbers for the resident's:

(i) Surrogate decision maker, if any; and

(ii) Health care providers;

(c) A current medical history;

(d) An inventory of personal belongings which is:

(i) Updated as additional belongings accrue; and

(ii) Dated and signed by the resident and the provider or resident manager;

(e) The resident's assessment;

(f) The current negotiated ~~((service))~~ care plan;

(g) Legal documents, including but not limited to:

(i) Power of attorney (POA) if the resident has appointed a POA;

(ii) Advance health care directives if the resident has executed such directives; and

(iii) A court order, if any, appointing a legal guardian and detailing the guardian's responsibility;

(h) Financial records;

(i) Medication records;

(j) The resident's social security number; and

(k) Admission, discharge, and absences information.

~~((5))~~ (6) The provider or resident manager shall keep the resident's record at the adult family home in which the resident lives.

**AMENDATORY SECTION** (Amending WSR 96-14-003, filed 6/19/96, effective 7/20/96)

**WAC 388-76-670 Disaster and emergency preparedness.** (1) The provider shall develop written plans and procedures to meet potential emergencies and disasters, such as fires, earthquakes, and floods.

(2) The provider shall ensure that all staff are trained in those emergency procedures when they begin to work at the home.

(3) The provider shall periodically review disaster and emergency procedures with staff, caregivers, and residents.

(4) ~~((The provider shall maintain a seventy-two hour food and water supply at the home to meet resident needs in an emergency))~~ In the plans and procedures described in subsection (1) of this section, the provider shall describe how they will provide residents and household members with a seventy-two hour supply of food, accommodating any specific resident needs or food restrictions, and three gallons of water per person, in order to meet resident and household member needs in an emergency.

(5) The provider shall ensure the adult family home has readily available first-aid supplies and a first-aid manual.

**AMENDATORY SECTION** (Amending WSR 96-14-003, filed 6/19/96, effective 7/20/96)

**WAC 388-76-675 Reporting requirements.** (1) The provider and all caregivers shall immediately notify the department's toll-free complaint telephone number of any incidents involving allegations of resident abuse, neglect, exploitation or abandonment in accordance with the provisions of chapter 74.34 RCW.

(2) The provider shall keep a log of ~~((injuries and))~~ resident accidents ~~((to residents))~~, injuries sustained in accidents, and injuries of unknown origin.

(3) When there is a significant change in a resident's condition, or a serious injury, trauma, or death of a resident, the provider shall immediately notify:

(a) The resident's family, surrogate decision maker, physician and other appropriate professionals, and other persons identified in the negotiated ~~((service))~~ care plan; and

(b) The case manager, if the resident is receiving services paid for fully or partially by the department.

(4) The adult family home shall immediately report to the department's aging and adult services administration:

(a) Any event, actual or potential, requiring the evacuation or relocation of all or part of the home's residents to another address; ~~((and))~~

(b) Circumstances which threaten the home's ability to ensure continuation of services to residents; and

(c) Instances when a resident is determined to be missing.

(5) The provider shall immediately notify local law enforcement anytime the provider has reason to believe that the resident has been the victim of a crime.

(6) The provider shall notify the local public health officer and the department of any occurrence of food poisoning or communicable disease as required by the state board of health.

**AMENDATORY SECTION** (Amending WSR 96-14-003, filed 6/19/96, effective 7/20/96)

**WAC 388-76-680 Infection control and communicable disease.** (1) The provider or resident manager shall institute appropriate infection control measures when the resident or any household member or caregiver has, or is suspected of having, a communicable disease.

(2) The provider shall ~~((, in addition to following))~~ follow chapter 49.17 RCW, Washington Industrial Safety and Health Act (WISHA) requirements ~~((,))~~ to protect the health and safety of residents ~~((from))~~ and employees. Specifically, with regard to tuberculosis ~~((by requiring))~~ the provider, ~~((and))~~ the entity responsible individual, each resident manager and caregiver ~~((to))~~ shall have, upon employment:

(a) A tuberculin skin test by the Mantoux method, unless the staff person:

(i) Documents a previous positive Mantoux skin test, which is ten or more millimeters of induration read at forty-eight to seventy-two hours;

(ii) Documents meeting the requirements of this subsection within the ~~((six))~~ twelve months preceding the date of employment; or

(iii) Documents adequate therapy for active disease, or adequate preventive therapy; or

(iv) Provides a written waiver from skin testing from the department of health ~~((or authorized local health department))~~;

(b) A second test one to three weeks after a negative Mantoux skin test ~~((for staff thirty-five years of age or older))~~; and

(c) A chest X-ray within seven days of any positive Mantoux skin test.

(3) The provider or resident manager shall:

(a) Report any employee's or provider's positive chest X-ray((s)) to the appropriate public health authority((r)); and  
 (b) Follow precautions ordered by ~~((a physician or))~~ the public health authority or the employee's personal physician.

(4) The provider shall retain records of tuberculin test results, reports of X-ray findings, physician or public health official orders, and waivers in the adult family home.

(5) The provider or resident manager shall:

(a) Use infection control standards and educational material consistent with the current curriculum for infection control as defined in the department's fundamentals of caregiving training ~~((and the adult family home provider's handbook));~~

(b) Dispose of used syringes, razor blades, and other sharp items in a manner that will not jeopardize the health and safety of residents, staff, and the public;

(c) Ensure disposals are placed in rigid containers, impervious to liquids and penetration by puncture. These containers shall be such that they cannot be opened either intentionally or accidentally; and

(d) Use all disposable and single-service supplies and equipment as specified by the manufacturer.

**AMENDATORY SECTION** (Amending WSR 96-14-003, filed 6/19/96, effective 7/20/96)

**WAC 388-76-685 Criminal history disclosure and background inquiries.** (1) Before the adult family home employs, directly or by contract, a resident manager, entity responsible individual or caregiver, or accepts as a caregiver any volunteer or student, or allows a household member unsupervised access to residents, the home shall:

(a) Require the person to complete the residential care services background inquiry form which includes:

(i) A disclosure statement; and

(ii) A statement authorizing the adult family home, the department, and the Washington state patrol to conduct a background inquiry;

(b) Verbally inform the person:

(i) That he or she may request a copy of the background inquiry result; and

(ii) Of the inquiry result within ten days of receipt; and

(c) Notify the appropriate licensing or certification agency of any person resigning or terminated as a result of having a conviction record.

(2) The adult family home provider shall not employ any person, directly or by contract, or accept as a volunteer or student any person who may have unsupervised access to residents, or allow a household member unsupervised access to residents if the person or background inquiry discloses that the person was:

(a) Convicted of a crime against persons as defined under RCW 43.43.830;

(b) Convicted of a crime related to financial exploitation as defined under RCW 43.43.830;

(c) Found by a court in a domestic relations proceeding under Title 26 RCW to have sexually abused or exploited any minor or to have physically abused any minor;

(d) Subject to an order of protection under chapter 74.34 RCW for abuse, neglect, abandonment or financial exploitation of a vulnerable adult;

(e) Found in a final decision issued by a disciplinary board to have:

(i) Sexually or physically abused or exploited any minor or developmentally disabled person; or

(ii) Abused, neglected, abandoned or financially exploited any vulnerable adult; or

(f) Found in any dependency action under RCW 13.34.030 (2)(b) to have sexually assaulted or exploited any minor or to have physically abused any minor.

(3) The adult family home may choose to employ a person with a conviction of a crime against persons only if the conviction is one of the crimes listed in RCW 43.43.842 and the required number of years has passed.

(4) An adult family home may conditionally employ a person pending the result of a background inquiry, provided the home requests the inquiry within seventy-two hours of the conditional employment.

(5) A background inquiry result is valid for two years from the date it is conducted, at which point a new background inquiry application must be submitted.

(6) The adult family home shall establish procedures ensuring:

(a) All disclosure statements and background inquiry applications and responses and all copies are maintained in a confidential and secure manner;

(b) All background inquiry results and disclosure statements are used for employment purposes only;

(c) Background inquiry results and disclosure statements are not disclosed to any person except:

(i) The person about whom the adult family home made the disclosure or background inquiry;

(ii) Authorized state and federal employees; and

(iii) The Washington state patrol auditor.

~~((6))~~ (7) A record of inquiry results shall be retained by the adult family home for eighteen months beyond the date of employment termination.

~~((7))~~ (8) The provider shall secure and submit any additional documentation and information as requested by the department to satisfy the requirements of this section.

**AMENDATORY SECTION** (Amending WSR 96-14-003, filed 6/19/96, effective 7/20/96)

**WAC 388-76-690 Advance directives, guardianship, and decision making.** (1) The provider or resident manager shall provide or ensure that the resident, at the time of admission, has received the department's current booklet on health care rights, in the language appropriate for the resident, if available from the department.

(2) The provider or resident manager shall:

(a) Immediately contact the local emergency medical services in the event of a resident medical emergency regardless of any order, directive, or other expression of resident wishes involving the provision of medical services;

(b) Have readily available for emergency medical services personnel the resident's advance directives if the resident has executed an advance directive;

(c) Inform the resident of the action required by subsection (2)(a) of this section; and

(d) Include the action required by subsection (2)(a) of this section in the home's operational policies.

(3) A licensed physician or registered nurse acting within his or her scope of practice shall be exempt from the provisions of subsection (2) of this section.

(4) ~~((Owners, administrators,))~~ Providers, provider~~(s)~~'s family members, and employees shall not act as legal guardian~~(, or attorney in fact,)~~ for any resident residing in or receiving care in the home, unless ~~((he or she is the parent, spouse, adult child, or sibling of the resident))~~ they have authorization under RCW 11.92.040(6). A provider, provider's family member, or employee who is a resident's guardian ((for a resident of the adult family home at the time of the effective date of this regulation shall have up to two years from the effective date of this regulation to be legally removed as guardian of the resident)) and who does not have this authorization shall diligently seek a court order in accordance with RCW 11.92.040(6) no later than one year from the effective date of this rule.

(5) The adult family home shall provide care and services in compliance with the federal patient self determination act and with applicable state statutes related to surrogate and health care decision making, including chapters 7.70, 70.122, 11.88, 11.92, and 11.94 RCW.

**AMENDATORY SECTION** (Amending WSR 96-14-003, filed 6/19/96, effective 7/20/96)

**WAC 388-76-695 Protection of resident funds—Liquidation or transfer.** (1) Upon the death of a resident, the adult family home shall promptly convey the resident's personal funds held by the adult family home with a final accounting of such funds to the department or to the individual or probate jurisdiction administering the resident's estate no later than forty-five calendar days after the date of the resident's death.

(2) If the deceased resident was a recipient of long-term care services paid for in whole or part by the state of Washington, then the personal funds held by the adult family home and the final accounting should be paid to the secretary, department of social and health services and mailed to the office of financial recovery, estate recovery unit, P.O. Box 9501, Olympia, WA 98507-9501 or such address as may be directed by the department in the future:

(a) The check and final accounting accompanying the payment shall contain the name and social security number of the deceased individual from whose personal funds account the monies are being paid; and

(b) The department of social and health services shall establish a release procedure for use of funds necessary for burial expenses.

(3) In situations where the resident is absent from the adult family home for an extended time without notifying the home, and the resident's whereabouts is unknown:

(a) The adult family home shall make a reasonable effort to find the missing resident; and

(b) If the resident cannot be located after ninety days, the home shall notify the department of revenue of the existence of "abandoned property," outlined in chapter 63.29 RCW. The home shall deliver to the department of revenue the balance of the resident's personal funds within twenty days following such notification.

(4) Prior to the sale or other transfer of ownership of the adult family home the provider shall:

(a) Provide each resident with a written accounting of any personal funds held by the home;

(b) Provide the new provider with a written accounting of all resident funds being transferred; and

(c) Obtain a written ~~((request))~~ receipt for those funds from the new provider.

**AMENDATORY SECTION** (Amending WSR 96-14-003, filed 6/19/96, effective 7/20/96)

**WAC 388-76-705 Remedies.** (1) The department may take one or more of the actions listed in subsection (3)(a) of this section in any case in which the department finds that an adult family home provider has:

(a) Failed or refused to comply with the applicable requirements of chapters 70.128 and 70.129 RCW or of this chapter;

(b) Operated without a license or under a revoked license;

(c) Knowingly, or with reason to know, made a false statement of material fact on his or her application for a license or any data attached thereto, or in any matter under investigation by the department; ~~((or))~~

(d) Willfully prevented ~~((or))~~, interfered with, or failed to cooperate with any inspection or investigation by the department; or

(e) Failed to comply with:

(i) A condition imposed on a license; or

(ii) A stop placement order.

(2)(a) For failure or refusal to comply with any applicable requirements of chapters 70.128 and 70.129 RCW or of this chapter, the department may provide consultation and shall allow the provider a reasonable opportunity to correct before imposing remedies under subsection (3)(a) unless the violations pose a serious risk to residents, are recurring or have been uncorrected.

(b) When violations of this chapter pose a serious risk to a resident, are recurring or have been uncorrected, the department shall impose a remedy or remedies listed under subsection (3)(a). In determining which remedy or remedies to impose, the department shall take into account the severity of the potential or actual impact of the violations on residents and which remedy or remedies are likely to improve resident outcomes and satisfaction in a timely manner.

(3)(a) Actions and remedies the department may impose include:

(i) Denial of an application for a license;

(ii) Imposition of reasonable conditions on a license, such as correction within a specified time, training, and limits on the type of residents the provider may admit or serve;

(iii) Imposition of civil penalties of not more than one hundred dollars per day per violation;

(iv) Suspension, revocation, or refusal to renew a license; or

(v) Order stop placement.

(b) When the department orders stop placement, the adult family home shall not admit any person until the stop placement order is terminated. The department may approve readmission of a resident to the adult family home from a hospital or nursing home during the stop placement. The

department shall terminate the stop placement when the department determines that:

- (i) The violations necessitating the stop placement have been corrected; and
- (ii) The provider exhibits the capacity to maintain adequate care and service.
- (c) Conditions the department may impose on a license include, but are not limited to the following:
  - (i) Correction within a specified time;
  - (ii) Training related to the violations;
  - (iii) Limits on the type of residents the provider may admit or serve;
  - (iv) Discharge of any resident when the department determines discharge is needed to meet that resident's needs or for the protection of other residents;
  - (v) Change in the license capacity;
  - (vi) Removal of the adult family home's designation as a specialized home;
  - (vii) Prohibition of access to residents by a specified person; and
  - (viii) Demonstration of ability to meet financial obligations necessary to continue operation.
- (d) When a provider fails to pay a fine when due under this chapter, the department may, in addition to other remedies, withhold an amount equal to the fine plus interest, if any, from any contract payment due to the provider from the department.
- (e) When the department finds that a licensed provider also operates an unlicensed adult family home, the department may impose a remedy listed under subsection (3)(a) of this section on the provider and the provider's licensed adult family home or homes.
- (f) When the department determines that violations existing in an adult family home are of such a nature as to present a serious risk of harm to residents of other homes operated by the same provider, the department may impose remedies on those other homes.

**WSR 98-04-014**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**

[Filed January 26, 1998, 10:05 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 97-20-057.

**Title of Rule:** Chapter 308-96A WAC, Vehicle licenses.

**Purpose:** To clarify the requirements to renew a disabled person parking privilege in WAC 308-96A-340. Relocate wording from WAC 308-96A-315 into WAC 308-96A-340 that address temporary disabled person parking placards. Create a new section in chapter 308-96A WAC which clarifies the return of individual disabled person parking placards and disabled person parking license plates when the privilege is no longer valid.

**Statutory Authority for Adoption:** RCW 46.01.110.

**Summary:** In an effort to better account for authorized renewals of disabled person parking placards the department is adding wording which a licensed physician's certification of continued disabling condition. The department is also establishing rules for the return of expired or no longer valid

placards and special disabled person parking license plates to curtail the misuse of these items.

**Reasons Supporting Proposal:** It has been demonstrated that placards are being used by persons who do not qualify for a special disabled person parking privilege.

**Name of Agency Personnel Responsible for Drafting:** Patrick J. Zlateff, 1125 Washington Street S.E., Olympia, WA, (360) 902-3718; **Implementation:** Nancy Kelly, 1125 Washington Street S.E., Olympia, WA, (360) 902-3754; and **Enforcement:** Evelyn Barker, 1125 Washington Street S.E., Olympia, WA, (360) 902-3811.

**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:** WAC 308-96A-340, as amended, will provide better accountability of authorized use of renewed disabled person parking placards and special license plates. The current rule has no allowances for a licensed physician to certify the disabling condition continues to exist and renewal of the disabled person parking privilege is justified. Adding a new section to chapter 308-96A WAC, Vehicle licenses, provides guidance for the return, to the department, of disabled person parking placards and disabled person special license plates that have expired or are no longer valid.

**Proposal Changes the Following Existing Rules:** Amends WAC 308-96A-340 to add requirement for a licensed physician to certify the disabling condition continues to exist at time of renewal of the disabled person parking privilege. Adds new section to chapter 308-96A WAC, Vehicle licenses, stipulating the requirements for the return of expired or invalid parking placards and special disabled person license plates.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in an industry.

RCW 34.05.328 (5)(a) does not apply to this rule adoption. The content of the proposed rules are explicitly and specifically dictated by statute.

**Hearing Location:** Highways-Licenses Building, Conference Room 309, 1125 Washington Street S.E., Olympia, WA 98507, on March 12, 1998, at 10:00 a.m.

**Assistance for Persons with Disabilities:** Contact Pat Zlateff by March 9, 1998, TDD (360) 664-8885, or (360) 902-3718.

**Submit Written Comments to:** Patrick J. Zlateff, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, FAX (360) 664-0831, by March 11, 1998.

**Date of Intended Adoption:** March 19, 1998.

January 23, 1998

Nancy Kelly, Administrator  
Title and Registration Services

**AMENDATORY SECTION** (Amending WSR 97-02-001, filed 12/19/96, effective 1/19/97)

**WAC 308-96A-340 Disabled person parking privileges—Validation term and renewal.** (1) Upon application to the department, a permanent disabled person special

parking (~~(placard)~~) privilege shall be ((issued)) granted to a person with a condition listed in RCW 46.16.381(1). The privilege is issued for a term not to exceed five years from the month and year in which the ((placard)) privilege is ((issued)) granted. Provided, the application for the disabled person parking privilege is signed by the applicant and accompanied by the certification signed by a licensed physician. The applicant may renew the privilege and placard ((may be renewed)) by ((providing)) submitting a written statement or renewal application to the department accompanied by a certification of a continued disabling condition, listed in RCW 46.16.381(1), signed by a licensed physician. ((The application must be signed by the applicant and state that the applicant continues to have disability conditions listed in RCW 46.16.381-)) Upon approval, the department shall issue a new placard valid for an additional five-year term.

(2) A temporary disabled person special parking privilege and placard shall be issued for the term of the applicant's temporary disability, as certified by a licensed physician, but shall not exceed six months from the date the ((placard)) privilege is ((issued)) granted. Upon expiration of ((such)) this privilege and placard, ((an additional)) a new temporary placard may be issued upon ((verification)) reapplication and certification by a licensed physician that the applicant continues to have a qualifying temporary disability. A temporary disabled person parking placard may also be issued upon visual verification, by the issuing authority, of a qualifying disability listed in RCW 46.16.381(1). This temporary placard shall be valid for the month of issuance unless there is less than two weeks remaining in the month. If there are less than two weeks remaining then this temporary placard is valid for the next succeeding month. This temporary placard may not be extended without a physician's certificate of disability.

(3) An applicant, who is an owner or co-owner of a vehicle and has a disability listed in RCW 46.16.381(1), as certified by a licensed physician, is eligible for a special disabled person parking license plate for ((the same term as the permanent disabled person parking placard issued to the applicant)) one vehicle. The applicant choosing the special disabled person parking license plate must validate their continued eligibility for disabled person parking privilege every five years by signing a renewal application or written statement. The renewal application or written statement must be accompanied by a certification of continued disabling condition, listed in RCW 46.16.381(1), signed by a licensed physician. The license fees and taxes for the vehicle displaying a disabled person parking license plate must be paid when due or the license plate is invalid.

(4) A permanent or temporary disabled person parking placard is invalid after the month and year indicated on the placard. A special disabled person parking license plate is invalid when the vehicle license fees and taxes are past due, the license plate is canceled ((, or when the permanent disabled person parking placard issued in conjunction with the license plate is invalid)). If the eligibility is canceled, the special disabled person parking license plates and/or placards become invalid.

## NEW SECTION

**WAC 308-96A-341 Individual disabled person parking privilege no longer valid.** When the disabled person parking privilege is no longer valid or required, the disabled person special parking placard and the special disabled person parking license plate must be returned to the department or its authorized agents within fifteen days from the date they become invalid or are no longer required. Reasons for the parking privilege being no longer valid include, but are not limited to:

- (1) The disability no longer exists;
- (2) The person with the qualifying disability is deceased;
- (3) The disabled person parking privilege has expired and has not been renewed;
- (4) The special disabled parking license plate has expired and has not been renewed within forty-five days of the plate's expiration.

**WSR 98-04-017**  
**PROPOSED RULES**  
**BOARD OF BOILER RULES**  
 [Filed January 27, 1998, 10:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-24-092.

Title of Rule: WAC 296-104-700 Inspection fees—Expenses.

Purpose: To comply with actions taken by the Board of Boiler Rules amending fee schedules to ensure revenue is sufficient to support program expenses.

Statutory Authority for Adoption: RCW 70.79.030, 70.79.330, 70.79.040.

Statute Being Implemented: Duties of board—Make definitions, rules and regulations—Inspection fees—Expenses—Schedules.

Summary: Amending fee schedules.

Reasons Supporting Proposal: Fee schedules for inspections, certificates and expenses have not been amended since 1984 and need to be increased to ensure revenue is sufficient to support program expenses.

Name of Agency Personnel Responsible for Drafting: Dick Barkdoll and Pat Carlson-Brown, 7273 Linderson Way S.W., (360) 902-5270.

Name of Proponent: Board of Boiler Rules, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 296-104-700 Inspection fees—Certificate fees—Expenses, to increase fees by four percent to ensure revenue is sufficient to support operating expenses and maintain the boiler fund at a level acceptable to the board.

Proposal Changes the Following Existing Rules: Increases fees by four percent.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Board of Boiler Rules and the department have determined that this increase in fees is a minor economic impact and thus the department



is not required to prepare a small business economic impact statement.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. RCW 34.05.328 exempts the Board of Boiler Rules from the significant rules requirements and although the criteria does not apply, the board chooses to apply the criteria.

Hearing Location: Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, on March 17, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Dick Barkdoll by March 17, 1998, (360) 902-5270.

Submit Written Comments to: Dick Barkdoll, Department of Labor and Industries, Boiler Section, P.O. Box 44410, Olympia, WA 98504-4410, FAX (360) 902-5292, by March 17, 1998.

Date of Intended Adoption: March 31, 1998.

January 12, 1998  
Daryl A. Hoffman  
Chairman

**AMENDATORY SECTION** (Amending WSR 93-12-014, filed 5/21/93, effective 6/21/93)

**WAC 296-104-700 Inspection fees—Certificate fees—Expenses.** The following fees shall be paid by, or on behalf of, the owner or user upon the completion of the inspection. The inspection fees apply to inspections made by inspectors employed by the state.

Heating boilers:	Internal	External
Cast iron—All sizes	<del>((25.00))</del> 26.00	<del>20.00))</del> 20.80
All other boilers less than 500 sq. ft.	<del>((30.00))</del> 31.20	<del>20.00))</del> 20.80
500 sq. ft. to 2500 sq. ft.	<del>((50.00))</del> 52.00	<del>25.00))</del> 26.00
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	<del>((20.00))</del> 20.80	<del>10.00))</del> 10.40
Power boilers:	Internal	External
Less than 100 sq. ft.	<del>((25.00))</del> 26.00	<del>20.00))</del> 20.80
100 sq. ft. to less than 500 sq. ft.	<del>((30.00))</del> 31.20	<del>20.00))</del> 20.80
500 sq. ft. to 2500 sq. ft.	<del>((50.00))</del> 52.00	<del>25.00))</del> 26.00
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	<del>((20.00))</del> 20.80	<del>10.00))</del> 10.40
Pressure vessels:		
Automatic utility hot water supply heaters per RCW 70.79.090		<del>((5.00))</del> 5.20
All other pressure vessels:		
Square feet shall be determined by multiplying the length of the shell by its diameter.	Internal	External
Less than 15 sq. ft.	<del>((20.00))</del> 20.80	<del>15.00))</del> 15.60
15 sq. ft. to less than 50 sq. ft.	<del>((30.00))</del>	<del>15.00))</del>

	31.20	15.60
50 sq. ft. to 100 sq. ft.	<del>((35.00))</del> 36.40	<del>20.00))</del> 20.80
For each additional 100 sq. ft. or any portion thereof	<del>((40.00))</del> 10.40	<del>35.00))</del> 36.40

Certificate of inspection fees: For objects inspected, the certificate of inspection fee is ~~\$(45.00))~~ 15.60 per object.

Nonnuclear shop inspections, field construction inspections, and special inspection services:

For each hour or part of an hour up to 8 hours	<del>((30.00))</del> 31.20
For each hour or part of an hour in excess of 8 hours	<del>((45.00))</del> 46.80

Nuclear shop inspections, nuclear field construction inspections, and nuclear triennial shop survey and audit:

For each hour or part of an hour up to 8 hours	<del>((45.00))</del> 46.80
For each hour or part of an hour in excess of 8 hours	<del>((70.00))</del> 72.80

Nonnuclear triennial shop survey and audit:

When state is authorized inspection agency:	
For each hour or part of an hour up to 8 hours	<del>((30.00))</del> 31.20
For each hour or part of an hour in excess of 8 hours	<del>((45.00))</del> 46.80
When insurance company is authorized inspection agency:	
For each hour or part of an hour up to 8 hours	<del>((45.00))</del> 46.80
For each hour or part of an hour in excess of 8 hours	<del>((70.00))</del> 72.80

**Expenses shall include:**

Travel time and mileage: The department shall charge for its inspectors' travel time from their offices to the inspection sites and return. The travel time shall be charged for at the same rate as that for the inspection, audit, or survey. The department shall also charge the current Washington office of financial management accepted mileage cost fees or the actual cost of purchased transportation. Hotel and meals: Actual cost not to exceed the office of financial management approved rate.

Reinspection fee: Same as the fee for the previous inspection during which discrepancies were reported. The fee will be charged only if the discrepancies are not corrected before the reinspection. The fee shall not exceed ~~\$(25.00))~~ 26.00. Washington state specials: For each vessel to be considered by the board for a Washington state special certificate, a fee of \$300.00 must be paid to the department before the board meets to consider the vessel. The board may, at its discretion, prorate the fee when a number of vessels that are essentially the same are to be considered.

**WSR 98-04-019  
PROPOSED RULES  
DEPARTMENT OF ECOLOGY**  
[Order 97-14—Filed January 28, 1998, 8:06 a.m.]

Continuance of WSR 97-17-081.  
Preproposal statement of inquiry was filed as WSR 97-12-091.

PROPOSED

Title of Rule: Chapter 173-152 WAC, Prioritizing certain water rights applications.

Purpose: To extend adoption date from December 17, 1997, to February 18, 1998.

Date of Intended Adoption: February 18, 1998.

January 25, 1998

Daniel J. Silver

Deputy Director

#### WSR 98-04-020

##### PROPOSED RULES

#### DEPARTMENT OF ECOLOGY

[Order 97-08—Filed January 28, 1998, 8:10 a.m.]

Continuance of WSR 97-19-081.

Preproposal statement of inquiry was filed as WSR 97-10-093.

Title of Rule: Chapter 173-160 WAC, Standards for construction and maintenance of wells and chapter 173-162 WAC, Rules and regulations and licensing of well contractors and operators.

Purpose: To extend adoption date from December 30, 1997, to March 6, 1998.

Date of Intended Adoption: March 6, 1998.

January 25, 1998

Daniel J. Silver

Deputy Director

#### WSR 98-04-021

##### PROPOSED RULES

#### DEPARTMENT OF ECOLOGY

[Order 97-06—Filed January 28, 1998, 8:15 a.m.]

Supplemental Notice to WSR 97-23-062.

Preproposal statement of inquiry was filed as WSR 97-08-038.

Title of Rule: Revise stream typing rules adopted by reference via chapter 173-202 WAC, Forest practices rules and regulations to protect.

Purpose: Modify forest practices rules defining Type 2 and 3 waters in WAC 222-16-030 (adopted by reference by chapter 173-202 WAC), and define requirements for Forest Practices Board (FPB) manual.

Other Identifying Information: Emergency rule relative to this proposal was adopted by ecology on February 14, 1997, WSR 97-05-039. Forest Practices Board filed companion proposal, WSR 98-02-065.

Statutory Authority for Adoption: RCW 90.48.420, 76.09.040, [76.09.]050 and chapter 34.05 RCW.

Statute Being Implemented: Chapter 90.48 RCW.

Summary: Amend WAC 173-202-020 to adopt by reference changes in WAC 222-12-090 and 222-16-030.

Reasons Supporting Proposal: Field checks and studies showed many streams were mistyped based on physical characteristics. Streams with fish were classed as not having fish. Proposed rule would update stream typing to reflect current state of knowledge and provide intended protection. Proposal will be coordinated with Forest Practices Board staff to the extent practicable.

Name of Agency Personnel Responsible for Drafting: Doug Rushton, 300 Desmond Drive, Lacey, WA 98503, (360) 407-6180; Implementation and Enforcement: Dick Wallace, 300 Desmond Drive, Lacey, WA 98503, (360) 407-6489.

Name of Proponent: Department of Ecology, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This proposal based on consensus recommendation from timber, fish, wildlife participants.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule established presumptions for determining fish use in the absence of field verification. Current knowledge about fish use in streams and habitat is needed in forest practices and related water quality rules so appropriate riparian and aquatic protection is provided. Recent studies have shown the need to upgrade some Type 4 (nonfishbearing) streams to Type 2 or 3 (fishbearing). The proposed rules are necessary to protect public resources, specifically fish, by ensuring riparian values are being applied to fish-bearing streams and that water quality upstream of fish hatchery intakes is protected.

The proposal adds fish use determination protocols to the Forest Practices Board manual.

Timber, fish, and wildlife participants developed this rule and recommended it as a consensus proposal to the Forest Practices Board and ecology as a first step in developing a comprehensive strategy to address fish, water quality, and a functional water typing system. TFW is continuing to develop a more comprehensive proposed rule that will also meet federal water quality requirements.

Proposal Changes the Following Existing Rules: WAC 222-16-030, provides protection of water quality upstream of fish hatcheries; stream gradient percentages changes from "less than 12%" to "16% or less"; stream channel widths change from "5 ft" to "2 ft or greater in W. Wash" and "3 ft or greater in E. Wash"; contributing basin sizes are added to the rule: 50 acres in western Washington and 175 acres in eastern Washington; and the Department of Natural Resources is given authority to waive presumption of fish use based on three specific criteria.

Ecology coadopts by reference through chapter 173-202 WAC, Washington forest practices rules and regulations to protect water quality (specifically WAC 173-202-020).

A small business economic impact statement has been prepared under chapter 19.85 RCW. Refer to WSR 97-15-042 for the small business economic impact statement.

A copy of the statement may be obtained by writing to Forest Practices Board Recording Secretary, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1413, or FAX (360) 902-1784.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. Considered to be a significant legislative rule.

Hearing Location: Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA, on July 1, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact FPB Secretary, (360) 902-1413, by June 15, 1998, TDD (360) 902-1431.

Submit Written Comments to: Doug Rushton, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, FAX (360) 407-6426, by July 2, 1998.

Date of Intended Adoption: July 8, 1998.

January 25, 1998

Daniel J. Silver

Deputy 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~~) January 7, 1998, 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 98-04-022

#### PROPOSED RULES

#### GAMBLING COMMISSION

[Filed January 28, 1998, 11:28 a.m.]

Original Notice.

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

Title of Rule: Gambling services supplier defined, WAC 230-02-205.

Purpose: Change rule to exclude those who provide storage, counting services, and/or specialized recordkeeping services for gambling activities from the definition of gambling services supplier.

Statutory Authority for Adoption: RCW 9.46.070 (11) and (14).

Summary: See Purpose above.

Reasons Supporting Proposal: Rule change would allow "dead game services" suppliers to be exempted from the licensing requirements of gambling services suppliers.

Name of Agency Personnel Responsible for Drafting: Soojin Kim, Lacey, (360) 438-7654 ext. 310; Implementation: Ben Bishop, Lacey, (360) 438-7654 ext. 302; and Enforcement: Carrie Tellefson, Lacey, (360) 438-7654 ext. 373.

Name of Proponent: Staff, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose and Reasons Supporting Proposal above.

Proposal Changes the Following Existing Rules: Currently, the definition of gambling related services includes, "Providing storage, counting services, and/or

PROPOSED

specialized recordkeeping services for the gambling activity (except general recordkeeping services provided by a professional accountant)." The amendment to WAC 230-02-205 deletes the reference to storage, counting services, and/or specialized recordkeeping services.

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

RCW 34.05.328 does not apply to this rule adoption. This agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Holiday Inn Sea-Tac, 17338 International Boulevard, SeaTac, WA 98188, (206) 248-1000, on March 13, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Green by March 1, 1998, TDD (360) 438-7638, or (360) 438-7654 ext. 302.

Submit Written Comments to: Soojin Kim, Mailstop 42400, Olympia, Washington 98504-2400, FAX (360) 438-8652, by February 28, 1998.

Date of Intended Adoption: March 13, 1998.

Soojin Kim  
Rules and Policy Coordinator

AMENDATORY SECTION (Amending WSR 97-24-031, filed 11/25/97, effective 1/1/98)

**WAC 230-02-205 Gambling services supplier defined.** A "gambling services supplier" is any person who provides gambling related services for compensation, whether direct or indirect, to any licensed operator or Class III tribal gaming facility, and who is not an employee of the operator receiving such services.

(1) Gambling related services include at least the following:

(a) Providing consulting or advisory services regarding gambling activities;

(b) Providing gambling related management services; or

(c) ~~((Providing storage, counting services, and/or specialized recordkeeping services for the gambling activity (except general recordkeeping services provided by a professional accountant); or~~

~~((d))~~ Providing any other service or activity where influence may be exerted over any gambling activity licensed by the commission.

(2) The term "gambling services supplier" does not include the following:

(a) Licensed manufacturers or distributors who service and repair pull tab dispensing devices, bingo equipment or any other authorized gambling equipment((-));

~~((3) The term "gambling services supplier" does not include))~~

(b) Professional services, such as those provided by attorneys, accountants, and governmental affairs consultants, that are unrelated to the management or operation of gambling activities; and

(c) Individuals that only provide nonmanagement related recordkeeping services related to punchboards and pull-tabs, such as counting or weighing unplayed tabs or punches, or storing played series or boards.

**WSR 98-04-032**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Adult Services Administration)

[Filed January 29, 1998, 10:44 a.m.]

Supplemental Notice to WSR 97-20-114.

Preproposal statement of inquiry was filed as WSR 96-18-089.

Title of Rule: Adult family home (AFH) licensing designations, WAC 388-76-561, 388-76-590, 388-76-600, 388-76-610, and 388-76-615.

Purpose: To comply with legislative mandate for the Department of Social and Health Services to define, in rule, AFH license levels based upon the education, training, and caregiving experience of the licensed provider or staff. To comply with statute requiring providers to obtain specialty care training before admitting residents with special care needs. This supplemental notice is the result of changes made in response to public comments received concerning the original proposed rules which were filed on September 30, 1997.

Statutory Authority for Adoption: RCW 70.128.060 and 70.128.120.

Statute Being Implemented: Chapter 70.128 RCW.

Summary: Establishes AFH licensing designations based upon education, training, and caregiving experience of providers and staff. Amends "specialty" AFH standards to require specialty care training before providers may admit residents with special care needs. Amends AFH disclosure and assessment requirements to deter inappropriate admissions to adult family homes. Revises and clarifies negotiated care plan standards.

Reasons Supporting Proposal: Comply with legislative mandate. Promote quality services and protection for AFH residents. State legislation RCW 70.128.060(6) and 70.128.120(6).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Gaskell, P.O. Box 45600, Olympia, WA 98504-5600, 1-800-422-3263 or (360) 438-7937.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules are intended to bring adult family home regulations into compliance with RCW 70.128.060 and 70.128.120. The rules should help ensure that AFH providers admit only those residents for whom they are capable of providing care. The rule should also allow consumers to make more informed decisions when selecting an adult family home. Finally, these rules are intended to promote the development of more highly trained providers who will have the capability to serve residents with special care needs.

Proposal Changes the Following Existing Rules: Establishes adult family home licensing designations (levels). Changes current rules to require specialty care training before providers may admit and serve residents with special care needs (with exceptions, effective July 1, 1999). Requires providers to give more detailed information about an adult family home to prospective residents. Requires

completion of a comprehensive assessment prior to a resident's admission to an adult family home. Provides that the comprehensive assessment must be completed by a qualified health services assessor (with exceptions, effective July 1, 1999).

A small business economic impact statement has been prepared under chapter 19.85 RCW.

### **Small Business Economic Impact Statement Introduction**

**What are the general goals and specific objectives of the statute that this rule implements?** RCW 70.128.060(6) directs the department to license an adult family home for the maximum level of care that the home may provide. The law also instructs the department to define, in rule, license levels which are based upon the education, training, and caregiving experience of the licensed provider or staff. In the proposed rules, the various license levels defined are each called a licensing "designation." This was done in an effort to avoid confusion with the commonly used terms "payment level" and "level of care."

RCW 70.128.120(6) says that providers and resident managers must successfully complete special care training before providing special care services to a resident.

The broad goal of these statutes is the licensure and operation of adult family homes capable of providing quality personal care and special care services to diverse populations of residents with significantly different needs and capacities from one another. Chapter 70.128 RCW directs the department to develop rules and policies that adequately protect residents and that recognize and accommodate the different needs and capacities of the various populations served by the homes while promoting a homelike environment.

In requiring the development of license levels, the statute seeks to assure that providers only admit those residents for whom they are capable of providing quality care and adequate protection. The law is attempting to promote the development of standards which increase the likelihood of appropriate matches between consumers and providers. It seeks to deter inappropriate admissions to adult family homes which result in providers finding they are unable to meet resident needs which in turn can lead to negative resident outcomes and relocations.

The statute pertaining to special care training requirements is attempting to promote the development of more highly trained providers who will have the capability to serve residents with special care needs (e.g., residents with a developmental disability, a mental illness, or dementia). A primary intent of this law is to promote aging in place (i.e., the capacity for an individual to live in a setting for most or all of the individual's life without having to be relocated due to changing care needs) by assuring that providers possess or obtain the necessary skills and training to meet the increasing care needs of residents.

**How were these proposed rules developed?** The department initially attempted to define adult family home licensing levels during the development of comprehensive rules mandated by the 1995 legislature and which became effective in July of 1996. Rules specific to adult family home licensing levels were found to be more complex and controversial than expected. A great deal of input was given by stakeholders (e.g., advocates, providers, consumers, social

and health service professionals) which represented widely varying viewpoints. The inability to achieve broad support for a licensing levels proposal threatened to delay the adoption of the remainder of the comprehensive rules.

Following discussions with stakeholders, the department decided to postpone proposing regulations for licensing levels and to address them in a separate rule-making process following adoption of the comprehensive adult family home rules.

The department resumed rule development for licensing levels in October of 1996. During October and November of that year, fourteen meetings were held throughout the state with key stakeholder groups. Among others, the department met with adult family home provider associations, advocacy groups including advocates for persons with developmental disabilities, regional area agencies on aging, community nurses and case managers serving adult family home residents, and family members of adult family home residents. Comments and recommendations that were obtained in 1995 and early 1996 were also reviewed and considered.

By December of 1996, significant progress had been made toward consensus regarding a three tiered model of adult family home licensing levels. In this hierarchical model, the first level of adult family homes would have been licensed to serve only relatively higher functioning residents with less intensive service or care needs. The second and third level adult family homes would have had higher training and skill level requirements for providers and resident managers and would have been authorized to admit and serve residents with progressively higher, more complex care needs. In addition, homes would have had to successfully operate for a certain period of time before being eligible for licensure at levels two and three.

An initial preliminary analysis projected that this proposal would have had a significant fiscal impact for the 1997-1999 biennium. With no funding available in the department's budget, it became necessary to draft a licensing levels proposal that would not require additional funds.

Work on this no fiscal impact model commenced in the spring of 1997. Comments and recommendations from the state-wide meetings held in October and November of 1996 were reviewed and analyzed again. Efforts were made to incorporate as many desirable recommendations as possible and rule out only those suggestions which were expected to have a fiscal impact.

A new draft of licensing levels rules was distributed at a meeting of key stakeholders and interested parties on August 19, 1997. Feedback from the state's two primary associations of adult family home providers reflected strong opposition to the draft rules. The department made some changes to the draft rules in response to stakeholder comments and filed proposed rules with the office of the code reviser on September 30, 1997.

Public hearings on the proposed rules were held on November 11 and 25 and were attended almost exclusively by adult family home providers. Written comments and testimony from providers continued to express strong opposition to the proposed rules. Some individuals also requested to receive a copy of the small business economic impact statement (SBEIS) required under the state's Regulatory Fairness Act. It was argued that the department should

have completed the SBEIS and included it for public review and comment with the filing of proposed rules in September.

Based upon written comments received and testimony provided at the public hearings, the department has made multiple changes to the proposed rules and has filed a supplemental notice of proposed rule making. In addition, this small business economic impact statement has been included.

### Impact on Small Business

**Are large and small businesses involved?** In reviewing current licensed adult family home providers, the vast majority of those providers fit the description of a small business found in RCW 19.85.020; "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." However, several adult family home providers own more than one home or operate other businesses, and have the purpose of making a profit. These providers are considered large businesses by the above definition, because they have fifty or more employees.

**What is the impact on business?** There are several categories of impact to businesses resulting from these rules. This section lists those with major impact and the expected provider costs related to resident assessments and service plans, licensure as a "RN" or "specialty" adult family home, and provider information disclosure requirements.

**Cost of resident assessment and initial service plan:** One major category of impact of these rules will be incurred as a result of the requirement that all prospective residents must have a full assessment and preliminary service plan developed by an approved professional prior to admission in an adult family home. The cost of one assessment and preliminary service plan development is *estimated* as follows:

3-5 hours for a complete assessment and development of the preliminary care plan.

1-2 hours miscellaneous, including travel, consultation, training, and preparation of materials.

The hourly cost is *estimated* to be \$45.00 per hour, including salary, benefits, and administrative costs to support the assessor. Included in the range of hours needed to complete the assessment is the recognition of the eventual requirement of a functional assessment for persons with dementia. This estimate leads to a cost range per assessment and preliminary care plan of from \$135.00 to \$315.00. These are *estimates*, and the department recognizes that costs may vary a great deal, depending on who conducts the assessment, their individual costs of doing business, and the resident's complexity of service needs.

The cost of this assessment may be borne directly or indirectly by numerous individuals or agencies. The agencies that may bear the cost include referral agencies, such as hospitals, insurance agencies, or other social or health care service providers. Individuals who may bear the cost are the residents or their family members, or the adult family home provider.

Some adult family home admissions will be delayed while awaiting completion of the required assessment. The

duration of any such delays may affect a provider's potential revenue.

**Costs of RN designation:** Another category of impact will be incurred by providers who are not registered nurses but who choose to be designated as a "RN" adult family home. These providers will incur the cost of hiring a registered nurse for twenty hours per week for each home that has the designation. Again, hourly costs will vary widely across the state, but the cost may be *estimated* to be \$30.00 per hour, including salary, benefits, and administrative costs. In this instance, administrative costs are intended to include the costs that the adult family home owner incurs in hiring and orienting the RN. This cost would be multiplied by twenty hours, totaling an *estimated* \$600.00 per week per home. The cost impact will be less for providers who already employ a nurse or contract for nursing services.

In the event that one provider had a number of homes with this designation, the administrative costs would be minimized by economies of scale. The initial outlay for this cost will presumably be borne directly by businesses, and eventually passed along to residents, including those supported with state funds and those paying privately, through their fees.

There may also be a cost to providers who elect not to be designated as a "RN" adult family home. It is possible that the "RN" designation will provide an advantage in marketing to clients, thereby creating lost revenue for providers who face difficulty finding clients because they have chosen not to have the "RN" designation.

**Costs of specialty designation:** Another category of impact will be incurred by providers who have not completed specialty care training but who choose to have one or more "specialty" designations to serve persons with dementia, a developmental disability, or a mental illness. These adult family homes will incur the cost of training for individual providers, and, in the instance that they hire a resident manager, also for the costs of training that individual. Each "specialty" designation will require completion of a separate specialty care training curriculum.

Providers and resident managers will have one opportunity, if they choose, to successfully pass a challenge test for dementia and mental health specialty care. The challenge test will be designed to indicate whether or not the individual taking the test has the necessary skills and training to serve persons with dementia or a mental illness. In instances where an individual passes the challenge test, overall training costs to providers will be reduced.

There are three primary categories of cost which must be considered, and are discussed below:

The cost of paying the wages for staff who replace the staff who are attending the training; the cost of tuition; and, the cost of travel and incidentals. The Division of Developmental Disabilities (DDD) will reimburse providers for classroom time spent in specialty care training for developmental disabilities.

With respect to replacing the staff who are attending mental health and dementia specialty care training, the time commitment required for the training is eighteen hours of classroom training, and two hours of skills evaluation. The department has historically required all caregivers to attend continuing education training, which has a comparable time commitment, and applies to all caregiving staff. The

continuing education training requirement is for ten hours, and must be fulfilled every year, and the specialty training will require twenty hours per year, and is required only once. According to the proposed rules, the specialty training may take the place of *two years fulfillment of the continuing education requirement*. This facet of the rules results in there being no *additional* cost to business due to replacing staff while they attend training, because they have historically incurred this cost in fulfilling the requirements of continuing education training.

The cost of tuition for dementia and mental health training will be determined by the private market, and will be set locally by the persons and agencies offering the training. This will vary considerably, depending on the nature of the specialty training, and the trainer. It will also vary depending on how the training is delivered. Specialty care training for developmental disabilities will be given at no cost to providers.

In situations where the provider is offering care to residents supported by the state, the department may assist by identifying resources to defray the cost of tuition. Also, considering that there is a preexisting requirement for the continuing education training, the cost of tuition is to some extent already being incurred.

There may also be costs incurred related to travel time, and travel related expenses, such as mileage. These will vary a great deal, depending on the location of the adult family home and its proximity to training. The aging and adult services administration (AASA) is taking steps to make dementia and mental health training available, through agreements with local trainers, in as many local areas as possible throughout the state. Training for developmental disabilities will also be made available in various regions across the state. Again, it is important to note that the adult family homes are already incurring some of these expenses as they fulfill the requirements for continuing education.

Revenue for providers currently serving residents with special care needs may be affected if those providers choose not to obtain special care training. In this instance, residents with special care needs would have to be relocated.

**Costs of provider disclosure:** All adult family home providers will be required to compile information about the adult family home required under the general resident rights section of the rules. The department *estimates* that it will initially take about five hours to compile the disclosure documents, and about three hours per year to maintain and distribute them. There will also be an initial cost to print the materials, and a continuing cost to reprint them as changes are needed. The cost for staff effort to compile and maintain the information, *estimated* at \$8.00 per hour including wages and benefits, would total approximately \$40.00 per year. The additional costs for printing and reprinting may be *estimated* at \$40.00 per year, totaling \$80.00 per year for the disclosure requirements.

The initial outlay for this cost will presumably be borne directly by businesses, and eventually passed along to residents, including those supported with state funds and those paying privately, through their fees.

**Are there disproportionate impacts to large and small business?** It is important to emphasize that the proposed rules are tailored to an industry that is almost solely comprised of small businesses. Therefore, all pro-

spective providers in the industry should, for the most part, be equally impacted by these rules. The one caveat is that providers who are small businesses may experience a disproportionate impact because any costs or unearned revenue would constitute a greater proportion of their income.

**How did the department mitigate the economic impacts?** The rules are needed in order to accomplish the purposes listed in RCW 70.128.060(6) and 70.128.120(6) described previously. Because the rules are needed, the department cannot feasibly mitigate all impacts to business. The following steps have been taken to minimize the costs to business:

1) The rules establish clear criteria for persons choosing to apply for a specific adult family home license designation and assist prospective applicants to determine whether they will be eligible for a specific license designation. The rules will also help a prospective applicant determine whether or not becoming a provider is a desirable option and what types of residents that applicant would be suited to serve. This minimizes costs in applying for, or attempting to maintain a license for which a person is ill suited or ineligible.

2) Through the option of challenge testing, the department has attempted to mitigate costs related to specialty care training that is required to serve persons with dementia or a mental illness.

3) The department is taking steps to make specialty care training available in as many local areas as possible throughout the state.

4) When feasible, deadlines and requirements placed on businesses have been delayed. For example, the proposed rules pertaining to specialty adult family homes and resident assessments have a delayed implementation date of July, 1999.

5) The department heavily emphasizes teaching and consultation to support compliance with the rules. The department supports providers in their efforts to improve quality by initially addressing problems through training, consultation, technical assistance, and case management. The department emphasizes problem prevention through monitoring and screening potential providers, and early education of providers when deficiencies are found. The department uses a written enforcement decision tree to determine remedies for violations of rules, relying on a structured progression of remedies commensurate with the severity and scope of the violation.

6) The department will provide information to businesses that will assist them with compliance. This will be available through regional training and provider orientation focused on the new rules and related rules.

7) The preproposal and public hearing process led to the department receiving considerable feedback on business issues. To the extent possible within the law, these issues were addressed through revisions of the rules. For example, the on-site requirement to qualify for the "RN" designation was reduced from forty to twenty hours per week and provider disclosure requirements were reduced and simplified.

8) In one instance, the department decided to delay filing a proposed rule in order to allow for more study of an issue. The delayed rule was the proposed requirement that all residents and household members could be safely

evacuated within five minutes of the commencement of a fire drill.

### Conclusion

The adoption of these rules will achieve compliance with the legislative mandates found in RCW 70.128.060(6) and 70.128.120(6). The department believes that adoption of these rules will help ensure that AFH providers will admit only those residents for whom they are capable of providing care. The rules will help promote the development of more highly trained providers who will have the capability to serve residents with special care needs. The rules should also allow consumers to make more informed decisions when selecting an adult family home.

After considerable review, the department has concluded that these rules are the least burdensome alternative that will achieve the goals and objectives of the statute and that the probable benefits of these proposed rules outweigh the probable costs.

A copy of the statement may be obtained by writing to Carole Campbell, Residential Care Services, P.O. Box 45600, Olympia, WA 98504-5600, phone (800) 422-3263 or (360) 493-2631, or FAX (360) 438-7903.

RCW 34.05.328 applies to this rule adoption. Because these proposed rules are considered significant legislative rules, RCW 34.05.328 applies. To obtain a copy of the cost benefit analysis contact Carole Campbell at the address and phone number listed above.

Hearing Location: OB-2 Auditorium, 1115 Washington Street S.E., Olympia, WA 98504, on March 10, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by March 2, 1998, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Hearing Location: Spokane Community College, 1810 North Green Street, Lair Building #6 (Sasquatch Room), Spokane, WA 99207-5399, on March 17, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by March 9, 1998, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to and Identify WAC Numbers: Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by March 17, 1998.

Date of Intended Adoption: No sooner than March 18, 1998.

January 28, 1998  
Edith M. Rice, Chief  
Office of Legal Affairs

### NEW SECTION

**WAC 388-76-561 Adult family home licensing designations.** (1) The department shall designate an adult family home as:

(a) A "basic" adult family home if the individual provider and resident manager have successfully completed the fundamentals of caregiving training or the modified fundamentals of caregiving training as required by WAC 388-76-660;

(b) An "experienced" adult family home if the home:

(i) Meets the criteria of (a) of this subsection; and

(ii) Has operated for the last two licensing periods without the imposition of any of the following:

(A) Civil penalties exceeding two hundred fifty dollars per visit;

(B) Cumulative civil penalties exceeding five hundred dollars;

(C) Conditions on the home's license related to resident care; or

(D) A stop placement order;

(c) A "RN" adult family home if:

(i) The individual provider is a licensed registered nurse, or the provider employs or contracts with a licensed registered nurse; and

(ii) The licensed registered nurse is on-site and on duty at least twenty hours per week or more, based upon assessed resident needs identified in the assessment required under WAC 388-76-610;

(d) A "specialty" adult family home if:

(i) The individual provider and resident manager have successfully completed specialty care training as required under WAC 388-76-590; and

(ii) The individual provider or resident manager is on-site and on duty at least twenty hours per week or more, based upon assessed resident needs identified in the assessment required under WAC 388-76-610; or

(e) A "RN-specialty" adult family home if:

(i) The individual provider is a licensed registered nurse, or the provider employs or contracts with a licensed registered nurse;

(ii) The individual provider, resident manager and any registered nurse have successfully completed specialty care training as required under WAC 388-76-590; and

(iii) The RN and individual with specialty care training are on-site and on duty at least twenty hours per week or more, based upon assessed resident needs identified in the assessment required under WAC 388-76-610.

(2) Licensed registered nurses under subsection (1)(c) and (e) of this section must also successfully complete the department's modified fundamentals of caregiving training.

(3) An adult family home designated as a "RN," "specialty," or "RN-specialty" home may also be designated as an "experienced" adult family home if it meets the criteria defined under subsection (1)(b) of this section.

(4) The department may change an adult family home's designation when:

(a) The provider submits certification of successful completion of required specialty care training to the department's licenser for that home; or

(b) Documentation is available at the home that satisfies requirements defined in this section for designation as a "RN" adult family home. Acceptable documentation shall include the RN's license and a staffing plan.

(5) The department may remove an adult family home's designation when the home no longer meets the criteria necessary to qualify for that designation.

(6) The provider shall notify the department within thirty days when the adult family home no longer meets the criteria necessary to qualify for a "RN," "specialty," or "RN-specialty" designation.

(7) The department will designate a qualifying home as an "experienced" adult family home at the time of the home's full reinspection.



(8) Failure to provide notification as required under subsection (6) of this section shall subject the provider to remedies permitted under WAC 388-76-705.

AMENDATORY SECTION (Amending Order 3984, filed 6/19/96, effective 7/20/96)

WAC 388-76-590 Specialty adult family homes. (1) ~~((Beginning September 1, 1996,))~~ An applicant or provider may apply for ~~((a))~~ one or more designations as a specialty adult family home to serve and meet the unique needs of residents with:

(a) A developmental ~~((disabilities))~~ disability as defined by subsection (3)(a) and (b) of this section;

(b) A mental ~~((illnesses))~~ illness as defined by subsection (3)(c) of this section; or

(c) Dementia.

~~((2))~~ ~~((An adult family home is not required to have a specialty designation to serve residents identified in subsection (1) above.~~

~~((3))~~ For purposes of this section, the term "related condition" means a severe, chronic disability which is:

(a) Attributable to:

(i) Cerebral palsy or epilepsy; or

(ii) Any other condition, other than mental illness, found to be closely related to mental retardation which results in impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation, and requires treatment or services similar to those required for these persons (i.e., autism);

(b) Manifested before the person reached age twenty-two;

(c) Likely to continue indefinitely; and

(d) Results in substantial functional limitations in three or more of the following areas of major life activities:

(i) Self-care;

(ii) Understanding and use of language;

(iii) Learning;

(iv) Mobility;

(v) Self-direction; and

(vi) Capacity for independent living.

(3) Beginning July 1, 1999, except as provided under subsection (4) of this section, an adult family home is required to have a specialty designation to admit and serve residents whose primary disability is:

(a) Mental retardation or a related condition;

(b) A developmental disability as defined by division of developmental disabilities (DDD) eligibility criteria under WAC 275-27-026 (as published in the Washington Administrative Code and in effect in January 1998);

(c) An Axis I or II diagnosed mental illness as defined by volume IV of the *Diagnostic and Statistical Manual of Mental Disorders* (1994 edition, copy available for review through the aging and adult services administration); or

(d) Dementia as determined by a department approved functional assessment.

(4) An adult family home must obtain a "specialty" designation before admitting and serving DDD clients or persons whose primary disability is mental retardation or a related condition if the adult family home:

(a) Is licensed after the effective date of these rules; or

(b) Does not already serve residents who are DDD clients or whose primary disability is mental retardation or a related condition.

(5) All providers may admit residents whose primary disability is a mental illness or dementia, as defined by subsection (3) of this section, until July 1, 1999.

(6) Beginning July 1, 1999, individual providers and resident managers shall have one hundred twenty days to complete specialty care training after a resident already living in the home develops a disability as defined under subsection (3) of this section.

(7) Successful completion of specialty care training shall satisfy continuing education requirements:

(a) For the current and following calendar year; or

(b) For the following two calendar years if the specialty care training is completed in the same year as required fundamentals in caregiving training or modified fundamentals in caregiving training.

(8) Providers and resident managers are exempt from attending dementia and mental health specialty care training if they successfully pass the department's challenge test for those specialties. Providers and resident managers have only one opportunity to successfully pass the challenge test then they must attend the specialty care training for which they failed to pass the challenge test.

(9) Developmental Disabilities. To be designated as a home specializing in services to residents ~~((with))~~ who are DDD clients or whose primary disability is a developmental ~~((disabilities))~~ disability as defined by subsection (3)(a) of this section, the individual provider ~~((or))~~ and resident manager, in addition to complying with all other rules in this chapter, shall:

(a) Complete the department approved ~~((supplemental))~~ specialty care training addressing the residential support needs for ~~((persons))~~ residents with developmental disabilities prior to being designated as a specialty adult family home. Training shall include, at a minimum, courses in positive behavior supports addressing behavior as a means of communication, and the division of developmental disabilities residential services guidelines;

(b) ~~((Each calendar year, complete a minimum of ten hours of continuing education credits that relates to providing care to persons with developmental disabilities. Training is to be obtained through regional division of developmental disabilities core training courses as offered for community service providers;~~

~~((i) The continuing education requirement listed above in subsection (3)(b) shall also qualify for the continuing education requirement in WAC 388-76-660 (2)(e);~~

~~((ii) The continuing education requirement begins the calendar year after the year in which the provider or resident manager completes the training listed above in subsection (3)(a); and~~

~~((e))~~ Demonstrate an ability to accommodate for communication barriers of residents and recognize how behaviors may be a means for communication; and

(c) Hire qualified caregivers and assure coverage of the home during periods of absence in order to meet residents' identified service needs, and have a documented staffing plan in place at all times.

~~((4))~~ A home specializing in services to residents with developmental disabilities shall provide the degree of

supervision needed by residents and specified in the residents' negotiated service plans, which may be less than twenty-four-hour supervision.

~~(5))~~ **(10) Mental Illness.** To be designated as a home specializing in services to residents ~~((with))~~ whose primary disability is a mental ((illnesses)) illness as defined by subsection (3)(c) of this section, the individual provider ((or)) and resident manager shall, in addition to complying with all other rules in this chapter:

(a) Complete the department approved ~~((specialized mental health))~~ specialty care training addressing the needs of ~~((persons))~~ residents who have a mental illness prior to being designated as a specialty adult family home;

(b) ~~((Each calendar year, complete a minimum of ten hours of continuing education credits that relates to mental health issues;~~

~~((i) The continuing education requirement listed above in subsection (5)(b) of this section shall also qualify for the continuing education requirement in WAC 388-76-660 (2)(e);~~

~~((ii) The continuing education requirement begins the calendar year after the year in which the provider or resident manager completes the training listed above in subsection (5)(a) of this section;~~

~~((e))~~ Have a documented crisis response plan in place, know how to access emergency mental health services, and assure all caregivers are knowledgeable and capable of implementing the plan in a crisis; and

~~((d))~~ (c) Hire qualified caregivers and assure coverage of the home during periods of absence in order to meet residents' identified service needs, and have a documented staffing plan in place at all times.

~~((6))~~ **(11) Dementia.** To be designated as a home specializing in services to residents ~~((with))~~ whose primary disability is dementia as defined by subsection (3)(d) of this section, the individual provider ((or)) and resident manager shall, in addition to complying with all other rules in this chapter:

(a) Complete the department approved specialty care training ~~((course))~~ in providing care to ~~((persons))~~ residents with dementia prior to being designated as a specialty adult family home;

(b) ~~((Each calendar year, complete a minimum of ten hours of continuing education credits that relate to providing care to persons with dementia;~~

~~((i) The continuing education requirement listed above in subsection (6)(b) of this section shall also qualify for the continuing education requirement in WAC 388-76-660 (2)(e);~~

~~((ii) The continuing education requirement begins the calendar year after the year in which the provider or resident manager completes the training listed above in subsection (6)(a) of this section;~~

~~((e))~~ Hire qualified caregivers and assure coverage of the home during periods of absence in order to meet residents' identified service needs, and have a documented staffing plan in place at all times; and

~~((d) Be))~~ (c) Ensure the home is designed to accommodate residents with dementia in a homelike environment. The design and environment of the home shall support residents in their activities of daily living; enhance their

quality of life; reduce tension, agitation, and problem behaviors; and promote their safety.

**AMENDATORY SECTION** (Amending Order 3984, filed 6/19/96, effective 7/20/96)

**WAC 388-76-600 General resident rights.** (1) The provider shall comply with all requirements of chapter 70.129 RCW, Long-term care resident rights. The provider shall promote and protect the resident's exercise of all rights granted under that law.

(2) ~~((The provider shall have written policies for the services provided, house policies, financial arrangements expected, and the home's policy on refunds and deposits. Prior to admitting any resident, the provider shall provide this information to the prospective resident and his or her surrogate decision maker, if applicable.))~~ Prior to admitting any resident, the provider shall provide information about the adult family home to the prospective resident and his or her surrogate decision maker, if applicable. The information shall be presented orally and in writing in a language understandable to the prospective resident and at a minimum shall include:

(a) A description of services and activities provided and available in the home;

(b) House rules and policies governing resident conduct and responsibilities;

(c) Fee payment schedules expected of residents by the provider;

(d) The home's policy on refunds and deposits;

(e) The caregiving experience of the provider and resident manager and their education and training relevant to resident caregiving;

(f) The regular availability and primary responsibilities of licensed nursing staff if the home is not a "RN" or "RN-specialty" designated adult family home;

(g) A statement indicating if the provider performs or is willing to perform nurse delegation as allowed under state law;

(h) A description of what the adult family home does or will try to do to accommodate a resident's foreseeable or likely increasing care needs for the kinds of residents served by the home;

(i) The foreseeable or likely resident needs and conditions for which the adult family home cannot or will not provide care; and

(j) All information prepared and provided for resident distribution by the department.

(3) The provider shall inform the resident both orally and in writing in a manner and in a language the resident understands when there are changes in:

(a) House policies governing resident conduct and responsibilities during the resident's stay in the adult family home;

(b) Services and activities available in the adult family home;

(c) Charges for available services including charges for services not covered by the home's per diem rate or applicable public benefit programs; and

(d) Refund and deposit policies.

(4) House policies implemented by the provider shall be reasonable and may not conflict with rights granted to the

resident under chapter 70.129 RCW, Long-term care resident rights or this chapter.

(5) The resident has the right to be fully informed in language that he or she can understand of his or her total health status, including, but not limited to, his or her medical condition as defined under RCW 7.70.060.

(6) The resident has the right to be fully informed in advance about recommended care and treatment and of any recommended changes in that care or treatment.

(7) The provider shall not require or ask the resident to sign any contract or agreement that waives any rights of the resident.

(8) The resident shall be free from abuse, neglect, abandonment, or financial exploitation.

(9) The provider shall comply with all applicable federal and state statutory requirements regarding nondiscrimination.

(10) The provider shall post in a place and manner clearly visible to residents and visitors the department's toll-free complaint telephone number, and the names, addresses, and telephone numbers of the state licensure office, the state ombudsman program, and the protection and advocacy systems. This posting shall include a description of the long-term care ombudsman program.

**AMENDATORY SECTION** (Amending Order 3984, filed 6/19/96, effective 7/20/96)

**WAC 388-76-610 Resident assessment.** (1) The provider shall not admit or retain a resident unless:

(a) The adult family home can meet the resident's assessed needs;

(b) The resident's admission will not:

(i) Adversely affect the provider's ability to meet the needs of other residents in the home; or

(ii) Endanger the safety of other residents; and

(c) All residents and household members can be safely evacuated in an emergency.

(2) ~~((For each resident))~~ Prior to the resident's admission, the provider shall ((have)) obtain a current written assessment which describes the resident's:

(a) Health and medical status;

(b) Mental status;

(c) Strengths and needs;

~~((e) Activities preferences; and))~~

(d) Functional ability in relationship to activities of daily living including: Eating, toileting, ambulating, transferring, positioning, specialized body care, personal hygiene, dressing, bathing, and management of own medication; and

(e) Preferences and choices regarding issues important to the resident (e.g., food, daily routine).

(3) ~~((The provider shall:~~

~~(a) Obtain sufficient assessment information to develop a negotiated service plan within fourteen days of the resident's admission; and~~

~~(b) Complete the assessment within thirty days of the resident's admission.~~

~~(4))~~ For purposes of this section, "health services assessor" means any person who:

(a) Has a master's degree in social services, human services, behavioral sciences or an allied field and two years social service experience working with adults who have functional or cognitive disabilities; or a bachelor's degree in

social services, human services, behavioral sciences, or an allied field and three years social service experience working with adults who have functional or cognitive disabilities;

(b) Has a valid Washington state license to practice as a registered nurse and three years of clinical nursing experience; or

(c) Is a physician with a valid Washington state license to practice medicine.

(4) Prior to admitting a private pay resident, the provider shall obtain an assessment of the resident and a preliminary service plan which have been completed by a health services assessor as defined by subsection (3) of this section. The assessment shall be completed on a department approved standardized form and shall include a department approved functional assessment for dementia. The requirements of this subsection shall become effective beginning July 1, 1999.

(5) The provider may admit a private pay resident without the required assessment and service plan if the individual's health and safety are in imminent danger. "Imminent danger" means serious physical harm to a resident has occurred, or there is a serious threat to resident life, health, or safety.

(6) Prior to admitting residents receiving services paid for fully or partially by the department, the provider shall obtain a comprehensive assessment and service plan completed by department staff or department approved contractors.

(7) The provider may admit a resident receiving services paid for fully or partially by the department without the required comprehensive assessment and service plan if:

(a) The resident must relocate because of department emergency enforcement action against a residential care facility;

(b) The resident is part of an adult protective services investigation; or

(c) The resident's previous residential care facility provider abandons the resident.

(8) If a provider admits a resident as allowed under subsections (5) and (7) of this section, the required assessment and service plan must be completed within five working days of the resident's admission, unless the resident's admission is part of an adult protective services investigation.

(9) The provider shall ensure that the resident's assessment is reviewed and updated ((for accuracy)) to document the resident's ongoing needs and preferences:

~~(a) ((As needed; and~~

~~(b))) At least every twelve months;~~

(b) When there is a significant change in the resident's physical or mental condition; and

(c) At the resident's or the resident legal representative's request.

(10) The assessment review required by subsection (9) of this section shall be completed by:

(a) A health services assessor as defined by subsection (3) of this section for private pay residents beginning July 1, 1999; or

(b) Department staff or department approved contractors for residents receiving services paid for fully or partially by the department.

AMENDATORY SECTION (Amending Order 3984, filed 6/19/96, effective 7/20/96)

**WAC 388-76-615 Negotiated ((service)) care plan.**

(1) Within fourteen days of the resident's admission the provider shall develop a negotiated ((service)) care plan with the resident which identifies:

- (a) The care and services to be provided;
- (b) Who will provide the care and services; (~~and~~)
- (c) When and how the care and services will be provided;

(d) The resident's activities preferences and how those preferences will be accommodated; and

(e) Other preferences and choices regarding issues important to the resident (e.g., food, daily routine, grooming), and what efforts will be made to accommodate those preferences and choices.

(2) For private pay residents, the provider shall build upon the assessment and preliminary service plan required under WAC 388-76-610(4) to develop the negotiated care plan.

(3) For residents receiving services paid for fully or partially by the department, the provider shall build upon the department's comprehensive assessment and service plan when developing the negotiated care plan.

~~((2))~~ (4) The provider shall ensure that the negotiated ((service)) care plan is:

~~(a) Designed to meet resident needs and preferences currently identified in the assessment; and~~

~~(b))~~ agreed to and signed by the resident or the resident's surrogate decision maker, if applicable.

~~((3))~~ (5) For residents receiving services paid for fully or partially by the department, the provider shall implement the negotiated care plan after it has been agreed to and signed by the resident or the resident's surrogate decision maker. Then the provider shall give a copy of the plan to the home and community services (HCS) staff person or department authorized case manager for review and determination that the plan is designed to meet the resident's identified needs.

(6) The negotiated ((service)) care plan shall be completed with input from:

- (a) The resident to the greatest extent practicable;
- (b) The resident's family, if approved by the resident;
- (c) The resident's surrogate decision maker, if applicable;
- (d) Appropriate professionals;
- (e) Other individuals the resident wants included; and
- (f) The HCS staff person or authorized department case manager, if the resident is receiving services paid for fully or partially by the department.

~~((4))~~ (7) The provider shall ensure that the resident's negotiated ((service)) care plan is reviewed and revised:

- ~~(a) ((As needed;~~
- ~~(b))~~ At least every twelve months;
- (b) When there is a significant change in the resident's physical or mental condition;

(c) At the resident's request; and  
~~((e))~~ (d) If changes or additions to assessment information result in significant changes to the resident's identified needs or preferences and choices.

(8) If there are significant changes to a resident's identified needs, and the resident is receiving services paid for fully or partially by the department, the provider shall notify the HCS staff person or the authorized department case manager. No payment rate change will be approved without an assessment and authorization by the department.

**WSR 98-04-036  
 PROPOSED RULES  
 SUPERINTENDENT OF  
 PUBLIC INSTRUCTION**  
 [Filed January 29, 1998, 3:51 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-20-079.

Title of Rule: WAC 392-140-601 through 392-140-685, special education safety net funding.

Purpose: To implement procedures and standards for school district eligibility for state special education safety net funding for the 1997-98 school year.

Statutory Authority for Adoption: RCW 28A.150.290, section 507(8), chapter 149, Laws of 1997.

Statute Being Implemented: Section 507(6), chapter 149, Laws of 1997.

Summary: Rules are updated to reflect an increased role of the state auditor's special education program audit team, the elimination of enrollment reporting by disability category, and a number of other changes.

Reasons Supporting Proposal: Changes reflect the changing availability of data and the needs of the state safety net oversight committee.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Superintendent of Public Instruction, Olympia, 753-2298; Implementation: Allen H. Jones, Superintendent of Public Instruction, Olympia, 753-6708; and Enforcement: Michael L. Bigelow, Superintendent of Public Instruction, Olympia, 753-1718.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Proposed changes recognize safety net eligibility for special education cooperatives of fifteen or more districts, and the State Schools for the Blind and Deaf.

The application for districts above their funded percentage is simplified.

The role of the state auditor's special education program audit team is defined.

Worksheets are revised to reflect changing data availability and the needs of the safety net oversight committee for information.

The process for appealing safety net awards is redefined.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule will have a minor or negligible economic impact.

PROPOSED

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

Hearing Location: Wanamaker Conference Room, 2nd Floor, Old Capitol Building, 600 South Washington Street, Olympia, WA 98504-7200, on March 10, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jim Rich by February 24, 1998, TDD (360) 664-3631, or (360) 753-6733.

Submit Written Comments to: Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504, FAX (360) 753-4201, by March 10, 1998.

Date of Intended Adoption: March 11, 1998.

January 29, 1998

Dr. Terry Bergeson  
Superintendent of  
Public Instruction

**AMENDATORY SECTION** (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

**WAC 392-140-601 Special education safety net—Authority.** The authority for WAC 392-140-600 through 392-140-685 is:

(1) Section ~~((508 of the 1995-97))~~ 507, chapter 149, Laws of 1997, the Biennial Operating Appropriations Act; and

(2) RCW 28A.150.290(1).

**AMENDATORY SECTION** (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

**WAC 392-140-602 Special education safety net—Eligible applicants.** (1) An individual school district of the state of Washington is eligible to apply for special education safety net moneys on behalf of its resident students. Resident students include those defined as resident pursuant to WAC 392-137-115, those enrolled through choice (RCW 28A.225.225) and those from nonhigh districts (RCW 28A.225.210). Resident students exclude those residing in another district and enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

(2) An interdistrict cooperative of at least fifteen districts in which all excess cost services for special education students of the districts are provided by the cooperative is eligible to apply for special education safety net moneys. The cooperative and the participating school districts shall be treated as a single school district for the purposes of this chapter. Participating school districts are not eligible to apply for safety net moneys individually.

(3) The Washington state school for the deaf and the Washington state school for the blind are eligible to apply for high cost individual students under WAC 392-140-616.

**AMENDATORY SECTION** (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

**WAC 392-140-605 Special education safety net—Safety net application—Basis, certification, worksheets.** Application for safety net funding shall be made on Form SPI 1381 published by the superintendent of public instruction as follows:

(1) School districts may make application for safety net funding on the basis of one or more of the following:

(a) Maintenance of effort (state revenue only) hereafter referred to as MOESR. State safety net funding may be requested when a district shows a MOESR loss calculated by the superintendent of public instruction pursuant to WAC 392-140-620.

(b) Special characteristics and costs. State safety net funding may be requested by a school district with special education costs of providing services that are reasonable, but differ significantly from the assumptions contained in the state special education funding formula provided that the applicant school district meets the standards of WAC 392-140-613 and can demonstrate, pursuant to WAC 392-140-625 either of the following:

(i) The district's actual resident special education enrollment exceeds the district's funded resident special education enrollment, the district has adopted a plan of action to contain or eliminate any unnecessary, duplicative, or ineffective enrollment practices, and all available funding, including state, federal, and local if provided in the past, is insufficient to meet the expenditure level necessary for special education; or

(ii) The district's resident special education enrollment percentage is equal to the funded special education enrollment percentage and the district has incurred an adverse change in the demographics of its resident special education enrollment since the prior school year, and all available funding, including state, federal, and local if provided in the past, is insufficient to meet the expenditure level necessary for special education.

(c) High-cost individual student. A school district may submit ~~((not more than three))~~ applications ~~((in a school year))~~ for federal safety net funding for high-cost individual students meeting the standards in WAC 392-140-616.

(2) The school district making application for safety net funding shall certify that:

(a) The application complies with the respective safety net application standards of WAC 392-140-610, 392-140-613, or 392-140-616;

(b) The application provides true and complete information to the best of the school district's knowledge; and

(c) The district understands that safety net funding is not an entitlement, is subject to adjustment and recovery, may not be available in future years, state safety net funding must be expended in program 21 which impacts the amount that must be maintained for the federal maintenance of effort test, and federal safety net funding must be expended in program 24.

(3) Worksheets included with the application shall demonstrate the need for safety net funding. School districts are encouraged and may be required to submit additional information designed to assist the state oversight committee in analyzing the application.

(a) MOESR applications pursuant to subsection (1)(a) of this section do not require any worksheets.

(b) Special characteristics and costs applications pursuant to subsection (1)(b)(ii) of this section require completion of the narrative and worksheets described in WAC 392-140-625.

(c) High-cost individual student applications shall include completed budget forms SPI F-1000B and SPI E-795B, and worksheets ("A," "B," "C") "A" and "C" published in the safety net application.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

**WAC 392-140-616 Special education safety net—Standards—High-cost individual student applications.** For districts requesting safety net funding to meet the extraordinary needs of an eligible high-cost individual special education student, the district shall demonstrate at a minimum that:

(1) The IEP for the eligible special education student is appropriate, and properly and efficiently prepared and formulated.

(2) All of the following criteria apply to the high-cost individual student:

(a) Costs eligible for safety net consideration must be direct expenditures for services required in the IEP.

(b) In order to deliver appropriate special education to the student, the district must be providing services which incur additional costs which exceed available district annual average per-pupil revenues, including state, federal and local revenues, by seven thousand dollars. This threshold amount shall be adjusted downward by the portion of the year for which the individual student was actually enrolled. For example, for a student served and reported for only one-half the year, the threshold amount shall be reduced by one-half. The state safety net oversight committee may set a lower threshold for small school districts.

(c) The total cost of educational services must exceed ~~((the sum of any MOESR gain calculated pursuant to WAC 392-140-620 and))~~ any carryover of federal flow-through special education funding as of August 31 of the prior school year.

(d) The cost of providing special education services, as directed in the IEP, for this student would be detrimental to the school district's ability to provide necessary services to the other students being provided special education in the district.

(3) The state safety net oversight committee shall adapt the high cost individual student application as appropriate for applications prepared by the Washington state school for the blind and the Washington state school for the deaf.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

**WAC 392-140-625 Special education safety net—Demonstration of special characteristics and costs.** ~~((Special characteristics and costs))~~ Applications pursuant to WAC 392-140-605 (1)(b) must demonstrate ~~((adverse impacts. Instructions to the application narrative and worksheets shall be published by the superintendent of public instruction with the safety net application))~~ special characteristics and costs as provided in this section.

(1) ~~((Adverse enrollment impacts shall be demonstrated as follows:~~

~~((a))~~ Applications from districts with actual enrollment greater than funded enrollment pursuant to WAC 392-140-605 (1)(b)(i) must demonstrate, through the application narrative, that the district has adopted a plan of action to contain or eliminate any unnecessary, duplicative, or ineffective enrollment practices. Applicants shall cooperate with the special education program audit team and shall provide the team with any information required by the team to

review and verify certifications made on the safety net application.

~~((b))~~ (2) Applications from districts with actual enrollment equal to funded enrollment pursuant to WAC 392-140-605 (1)(b)(ii) must demonstrate, through the application narrative and on application worksheet ~~((("A,"))~~ "A" and "B," an adverse change in resident special education enrollment characteristics and program costs since the prior school year.

~~((i))~~ (a) The application narrative completed by the school district shall provide any information and explanations related to special enrollment characteristics as required in the published instructions.

~~((i))~~ (b) Application worksheet "A" shall ~~((use enrollments reported by and/or for the district to the superintendent of public instruction and published by the superintendent of public instruction for this purpose and shall measure the resident special education enrollment difference by disability category. Differences shall be expressed as a headcount difference and as a percent of the district's current school year annual average full-time equivalent resident basic education enrollment calculated pursuant to WAC 392-121-133))~~ demonstrate a financial need by displaying the school district's special education expenditures, revenues, and special education enrollments for the prior and current school years. Application worksheet "B" shall display changes in staff services and staff-to-ratios between the prior and current school years.

~~((2))~~ (c) Cost differences between the current and prior school years ~~((resulting from the adverse enrollment impacts demonstrated pursuant to subsection (1) of this section))~~ shall be ~~((demonstrated))~~ explained in the application narrative. The application narrative shall detail cost differences in services to students which occurred between the current school year and the prior school year. Such details shall include costs and savings associated with each change in services.

~~((3))~~ (d) A fiscal need shall be demonstrated through the application narrative, on application worksheets "A" and "B," and other information available to the state oversight committee. Fiscal need shall be demonstrated as follows:

~~((a))~~ (i) The application narrative shall ~~((be completed by the school district and))~~ provide information and explanations related to fiscal need pursuant to the published instructions.

~~((b))~~ (ii) Application worksheets "A" and "B" shall ~~((be completed by the school district and shall))~~ demonstrate a fiscal need in excess of the sum of:

~~((i))~~ (A) All current school year safety net awards to the district for MOESR or special characteristics and costs; ~~((ii) Any MOESR gain as calculated pursuant to WAC 392-140-620;~~

~~((iii))~~ (B) Any previous high cost individual safety net awards for the current school year; and

~~((iv))~~ (C) All other available revenue for special education including all carryover of federal special education revenue.

~~((4))~~ (iii) The school district shall provide additional information as requested by the state oversight committee.

NEW SECTION

**WAC 392-140-630 Special education safety net—Special education program audit team—Purpose, procedures.** The special education program audit team consists of staff of the state auditor's office funded in the Biennial Operating Appropriations Act to audit special education programs that exhibit unusual rates of growth, extraordinarily high costs, or other characteristics requiring the attention of the state safety net oversight committee. When reviewing a school district's special education program, the audit team shall review and verify any certifications and supporting information provided by the district in a safety net application. The audit team shall provide the results of the review to the state oversight committee. The results of the audit team's review may be considered by the oversight committee in determining, adjusting, or recovering safety net awards.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

**WAC 392-140-640 Special education safety net—((Definition—))State oversight committee—Membership, structure.** Membership of the state oversight committee shall consist of: Staff of the office of superintendent of public instruction, staff of the office of state auditor, staff of the office of financial management, one or more representatives from a school district(s), and one or more representatives from an educational service district.

(1) The state oversight committee members will be appointed by the office of superintendent of public instruction.

(2) The state director of special education shall serve as an ex officio, nonvoting committee member and act as the state oversight committee manager.

(3) Members of the state oversight committee from school districts and/or educational service districts will be appointed based on their knowledge of special education program service delivery and funding, geographical representation, size of district(s) served, and other demographic considerations which will guarantee a representative state committee.

(4) Alternate members shall be appointed. In the event a member is unable to attend a committee meeting, an alternate member shall attend.

(5) Membership appointments shall be made for a period of one year. The oversight committee manager may replace a portion of the committee each year in order to enhance representation.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

**WAC 392-140-656 Special education safety net—((Safety net appeal—Procedures)) Request for review and reconsideration.** ~~((While special education safety net funding is not an entitlement,))~~ An applicant district may ~~((appeal))~~ request review and reconsideration of an action of the state oversight committee made pursuant to WAC 392-140-646.

(1) The district shall ~~((appeal))~~ make the request in writing to the superintendent of public instruction within thirty days of the date that the state oversight committee's

written determination notice is sent to the district pursuant to WAC 392-140-643(11).

(2) The applicant district shall request reconsideration of the state oversight committee's action on one or more of the following grounds:

(a) The action was outside the statutory authority of the committee;

(b) The action failed to follow prescribed procedures;

(c) The action erroneously interpreted or applied the law;

(d) The action was not supported by substantial evidence; or

(e) The action was inconsistent with the agency rules regarding safety net funding.

(3) If the superintendent of public instruction finds grounds for reconsideration pursuant to subsection (2) of this section, the superintendent shall request reconsideration of the action by the state oversight committee. The superintendent's request shall state the grounds for reconsideration supported by the facts considered by the superintendent.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

**WAC 392-140-660 Special education safety net—Approved application—Initial state special education safety net allocation.** The total amount allocated to school districts may not exceed the authorized appropriation.

(1) The initial special education safety net allocation of state moneys for applicants shall be the smaller of:

(a) The amount requested by the school district; or

(b) The amount authorized by the state oversight committee.

~~((The state oversight committee shall determine what portion, if any, of a special characteristics and costs application amount is to be credited against a MOESR gain determined pursuant to WAC 392-140-620.~~

(3)) The initial special education safety net allocation of state moneys for special characteristics applicants under WAC 392-140-605 (1)(b) shall be prorated if the state total year-to-date allocations for all safety net applications under WAC 392-140-605 (1)(a) and (b) exceed the authorized appropriation for that school year.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

**WAC 392-140-665 Special education safety net—Approved application—Initial federal special education safety net allocation.** If documented needs for federal discretionary funds exceed the appropriation the superintendent of public instruction may access additional federal funds.

(1) The state oversight committee shall determine what portion, if any, of a high cost individual application amount is to be credited against ~~((the sum of any MOESR gain determined pursuant to WAC 392-140-620 and))~~ any carryover of federal flow-through special education funding from the prior school year.

(2) The initial allocation amount of federal special education safety net moneys for a school district is the amount authorized by the state oversight committee and may

be prorated if the total year-to-date allocations for such applications exceeds the authorized appropriation.

**AMENDATORY SECTION** (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

**WAC 392-140-675 Special education safety net—Adjusted special education safety net allocation.** Safety net allocation amounts for a school district may be adjusted during the school year as follows:

(1) The initial state and federal special education safety net allocation amounts for a school district may be adjusted to reflect changes in factors for which additional or revised information becomes available after the awarding of the initial safety net allocation (~~(and such information results in the district being eligible for a lesser allocation)~~). This means:

(a) MOESR awards shall be reduced or nullified when a recalculation pursuant to WAC 392-140-620 results in a loss smaller than any loss previously calculated pursuant to WAC 392-140-620.

(b) Special characteristics and costs awards (~~(shall)~~ may be reduced or nullified when (~~(a recalculation pursuant to WAC 392-140-620 results in a gain which is larger than any previously calculated pursuant to WAC 392-140-620 and against which safety net applications are credited pursuant to WAC 392-140-660(2) and/or 392-140-665(1))~~ the school district's actual revenues and expenditures for the school year differ significantly from the estimates on which the initial safety net award was based.

(c) A school district's safety net award may be adjusted by the safety net oversight committee based on the results of the review conducted by the special education program audit team pursuant to WAC 392-140-630.

(2) The initial special education safety net allocation of state moneys for special characteristics applicants under WAC 392-140-605 (1)(b) shall be subject to additional proration if total state allocations for all safety net applications under WAC 392-140-605 (1)(a) and (b) exceed the authorized appropriation for that school year.

**AMENDATORY SECTION** (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

**WAC 392-140-680 Special education safety net—Recovery of state allocations to school districts.** State safety net funding is provided in revenue account 4121. Safety net funding:

(1) Shall be recovered or reduced for the following reasons:

(a) Unexpended account 4121 revenues are recovered in the subsequent school year pursuant to WAC 392-122-900.

(b) Any necessary adjustments pursuant to WAC 392-140-675 were not previously made.

(c) The periodic and/or final MOESR calculation performed by the superintendent of public instruction determines that a lesser amount is needed for maintenance of effort (state revenue only).

(d) The district did not use or failed to apply for available Medicaid or federal flow-through special education funding.

(e) The application contains a falsification or deliberate misrepresentation, including omission of a material fact.

(f) The state auditor's financial and legal compliance audit includes findings which materially affect the school district's safety net application.

(2) May be recovered or reduced for the following reasons:

(a) IEPs are determined at a later date through state audit or child count verification to be inappropriate or improperly prepared, (~~(have impacts material in nature to))~~ and appropriate and proper preparation would materially affect the justification or amount of need for safety net funding.

(b) The school district has carryover of federal flow-through special education funding from the previous school year.

(c) The state oversight committee finds grounds for adjustment in the special education program audit team's review pursuant to WAC 392-140-630.

**AMENDATORY SECTION** (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

**WAC 392-140-685 Special education safety net—Recovery of federal allocations to school districts.** High cost individual student federal special education safety net allocations:

(1) Shall be recovered or awards reduced ((when)) for the following reasons:

~~((1))~~ (a) The application contains a falsification or deliberate misrepresentation, including omission of a material fact.

~~((2) The school district has carryover of federal flow-through special education funding from the prior school year.~~

~~(3))~~ (b) The allocation is unexpended for the purpose allocated including but not limited to situations where the student leaves the district or has a change in services. For students who transfer to another Washington public school district, expenditures for specialized equipment purchased with these funds shall not be recovered provided the district transfers the equipment to the other school district.

~~((4))~~ (c) The IEP is determined at a later date, through state audit or child count verification, to be inappropriate or improperly prepared and (~~(impacts))~~ appropriate and proper preparation would materially affect the justification or amount of need for safety net funding.

~~((5) A recalculation pursuant to WAC 392-140-620 results in a gain larger than any previously calculated pursuant to WAC 392-140-620 and against which safety net applications are credited pursuant to WAC 392-140-665(1) and/or 392-140-675 (1)(b). This means MOESR adjustments are made first to state safety net awards and then to federal safety net awards-))~~ (2) May be recovered or awards reduced for the following reasons:

(a) The school district has carryover of federal flow-through special education funding from the school year for which the award was made.

(b) The district's actual revenues are significantly higher than estimated revenues on which the award was based or the district's actual expenditures are significantly lower than the estimated expenditures on which the award was based.

(c) The state oversight committee finds grounds for adjustment in the special education program audit team's review pursuant to WAC 392-140-630.



Recovery adjustments not made in the current school year shall be added to the amount calculated pursuant to WAC 392-140-616 (2)(c) for the following school year. Such amounts reduce federal safety net awards in the following year.

Date of Intended Adoption: No sooner than March 25, 1998.

January 29, 1998  
Edith M. Rice, Chief  
Office of Legal Affairs

**WSR 98-04-039**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed January 29, 1998, 4:24 p.m.]

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

Title of Rule: WAC 388-49-550, 388-49-560, 388-49-570, and 388-49-580.

Purpose: To implement a change in the federal thrifty food plan for the food stamp program. Also to repeal several WAC sections referencing, instead, the Code of Federal Regulations in one remaining section.

Statutory Authority for Adoption: RCW 74.04.510, 74.08.090.

Statute Being Implemented: Section 804, Public Law 104-193.

Summary: Incorporates in WAC the latest thrifty food plan necessary for computing food stamp benefits.

Reasons Supporting Proposal: Mandated by federal statute.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dan Ohlson, Mailstop 45470, (360) 413-3074.

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

Rule is necessary because of federal law, 7 CFR 273.10(e) 2 as amended by Vol. 62. No. 235 Federal Register (12/8/97).

Explanation of Rule, its Purpose, and Anticipated Effects: Due to regulatory reform, several WAC sections are repealed and shortened. The thrifty food plan is updated reflecting federal statute and rule.

Proposal Changes the Following Existing Rules: Repealing WAC 388-49-560, 388-49-570, and 388-49-580; and amending WAC 388-49-550.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 (5)(b)(vii) exempts the Department of Social and Health Services rules that only to client medical or financial eligibility.

Hearing Location: Lacey Government Center (behind Tokyo O'Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on March 24, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by March 16, 1998, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to and Identify WAC Numbers: Paige Wall, Acting Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by March 24, 1998.

AMENDATORY SECTION (Amending WSR 96-23-024, filed 11/12/96, effective 1/1/97)

WAC 388-49-550 ((Monthly allotments)) Computing, issuing, replacing, and restoring food stamp benefits. (1) ~~((The department shall determine the value of the allotment a household receives))~~ Amounts are figured per 7 CFR 273.10 and the thrifty food plan (TFP).

(2) ~~The ((monthly allotment shall equal the thrifty food plan (c)) TFP (c) for the household size reduced by thirty percent of the household's net income. The department shall use the monthly allotment standards as established by the food and nutrition service))~~ is a federal amount set as a low cost diet for various household sizes. The amounts below are given to households with zero countable income. Households with income receive smaller benefits.

<u>Household Size</u>	<u>Thrifty Food Plan</u>
1	<del>\$(120)</del> <u>122</u>
2	<del>((220))</del> <u>224</u>
3	<del>((315))</del> <u>321</u>
4	<del>((400))</del> <u>408</u>
5	<del>((475))</del> <u>485</u>
6	<del>((570))</del> <u>582</u>
7	<del>((630))</del> <u>643</u>
8	<del>((720))</del> <u>735</u>
9	<del>((810))</del> <u>827</u>
10	<del>((900))</del> <u>919</u>
Each additional member	+ <del>((90))</del> <u>92</u>

(3) ~~((The department shall issue to households, except for households as specified in subsection (4) of this section, a prorated coupon allotment for the number of days remaining from the date of application to the end of the initial month of eligibility.~~

~~(a) The department shall base the allotment on a thirty-day month.~~

~~(b) The department shall not issue an allotment for less than ten dollars.~~

~~(4) The department shall issue a full month allotment to eligible migrant and seasonal farmworker households applying within one calendar month after a prior certification ends.~~

~~(5) The department shall determine the value of the monthly allotment a household receives by:~~

~~(a) Multiplying the household's net monthly income by thirty percent;~~

~~(b) Rounding the product up to the next whole dollar if it ends with one through ninety-nine cents; and~~

~~(c) Subtracting the result from the thrifty food plan for the appropriate household size.~~

~~(6) One and two person households shall receive a minimum monthly allotment of ten dollars except in the initial benefit month when the department shall not issue an allotment for less than ten dollars.~~

PROPOSED

~~(7) The department shall issue an identification card to each certified household.)~~ Amounts are issued per 7 CFR 274.2 and 7 CFR 274.3.

(4) Amounts are replaced per 7 CFR 274.6.

(5) Amounts are restored per 7 CFR 273.17.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- 388-49-560 Issuance.
- 388-49-570 Replacement allotments.
- 388-49-580 Restoration of lost benefits.

**WSR 98-04-059**  
**PROPOSED RULES**  
**WASHINGTON STATE**  
**HISTORICAL SOCIETY**  
[Filed February 2, 1998, 9:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-24-001.

Title of Rule: Capital projects fund for Washington's heritage.

Purpose: To support capital needs and facilities of heritage organizations, tribal governments, public development authorities, and local government agencies that interpret and preserve Washington's history and heritage.

Statutory Authority for Adoption: RCW 27.34.330.

Summary: WAC provides guidelines for organizations to apply for capital funds for heritage projects.

Name of Agency Personnel Responsible for Drafting: Jean Peterson, 211 West 21st, Olympia, (360) 586-0219; Implementation and Enforcement: Michael Warner, 211 West 21st, Olympia, (360) 586-0219.

Name of Proponent: Washington State Historical Society, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To provide guidelines for organizations to apply for capital funds for heritage projects.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The RCW has no connection with small businesses.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: 1911 Pacific Avenue, Tacoma, WA 98403, on March 10, 1998, at 1 p.m.

Assistance for Persons with Disabilities: Contact Marie De Long by March 5, 1998, (253) 798-5901.

Submit Written Comments to: FAX (360) 586-8322, by March 1, 1998.

Date of Intended Adoption: March 10, 1998.

January 15, 1998

Jean R. Peterson

Administrative Assistant

#### Chapter 255-02 WAC CAPITAL PROJECTS FUND

#### NEW SECTION

**WAC 255-02-010 Purpose.** The purpose of the capital projects fund is to support capital needs and facilities of heritage organizations, tribal governments, public development authorities, and local government agencies that interpret and preserve Washington's history and heritage.

#### NEW SECTION

**WAC 255-02-020 Authority.** The capital projects fund is authorized by RCW 27.34.330.

#### NEW SECTION

**WAC 255-02-030 Organization.** The fund is administered by the Heritage Resource Center, which is an outreach program of the Washington state historical society.

(1) The director of the Heritage Resource Center shall be the administrator of the fund.

(2) The director of the Washington state historical society and the director of the Heritage Resource Center shall be the authorizing officials for the agency.

(3) There shall be an advisory panel, appointed by the authorizing officials, to determine grant guidelines and review grant applications. The panel shall be comprised of individuals whose expertise can address specific issues.

(a) The panel will meet at least two times per year to review procedures and to evaluate grant applications.

(b) Panel members may be reimbursed for travel expenses.

(c) The advisory panel shall have at least one representative from the Washington Museum Association, the eastern Washington state historical society, the office of the secretary of state, and the office of archaeology and historic preservation.

(d) Panel members shall refrain from making recommendations if there is a conflict of interest involving an applicant or specific application.

(4) The panel will make recommendations and provide a ranked list of these recommendations to the office of financial management, the office of the governor, and state legislature.

(5) The capital projects fund shall be housed at the Heritage Resource Center, Washington State Historical Society, at 211 West 21st Ave., Olympia, WA 98501.

#### NEW SECTION

**WAC 255-02-040 Definitions.** The following definitions shall apply throughout this title:

(1) "Agency" means the Washington state historical society.

(2) "Applicant" means any nonprofit organization, local government agency, public development authority, or tribe that submits an application to the fund.

(3) "Cash match" is money from the applicant organization or from other sources, which can include grants from foundations, nonstate governmental agencies, individuals, corporations and others.

(4) "Cost share" are those costs, including cash and in-kind, that the applicant will incur from its own resources or from other cooperating organizations to complete the project described in the proposal.

(5) "Heritage organization" is a group whose purpose is to collect, preserve, or interpret history, heritage, and culture.

(6) "Capital heritage project" is any project that involves the physical plant of an organization or the acquisition of property by an organization. (See eligible projects.)

(7) "In-kind contributions" are those contributions to a project that are not part of the cash match. They may include contributions of materials and supplies, professional consultation, legal and accounting services, architectural design fees, volunteer time, labor.

(8) "Local government agency" is any city or county agency, or port district. State and federal agencies are not eligible to apply.

(9) "Nonprofit organization" is an organization which has a 501 (c) (3) IRS tax determination by the Internal Revenue Service (IRS) and is incorporated under the nonprofit laws of the state of Washington.

(10) "Total project costs" include the amount sought from the fund and what the applicant will provide as cost-share.

#### NEW SECTION

**WAC 255-02-050 Eligible projects.** Funds may assist in, but will not be limited to, the following types of projects:

(1) Construction of new facilities or improvements to existing facilities.

(2) Purchase, restoration and/or preservation of such fixed assets as historic buildings and structures, historic ships, locomotives, airplanes and other transportation conveyances.

(3) Acquisition of unimproved property for the purpose of construction of a new facility that will have a heritage mission.

(4) Acquisition, protection, stabilization, and/or development of historic or archaeological sites that are culturally of historical significance.

(5) Physical improvement of interior facility spaces for exhibitions, programs, and/or preservation activities. The program does not provide funds for any part of an exhibition or education program.

(6) Construction-related design, architectural, and engineering expenses.

(7) Purchase of equipment when necessary to accomplish the project. Documentation will be required.

(8) Bridge loans, or financing, but only if the loan is obtained after the application is approved for funding by the legislature.

#### NEW SECTION

**WAC 255-02-060 Ineligible projects.** Ineligible projects and costs include:

(1) General facility maintenance, routine repairs, consumable supplies, operating expenses, salaries, or programs.

(2) Equipment not directly related to the project.

(3) Leasing of equipment of automotive vehicles.

(4) Indirect cost reimbursement for administrative functions. The fund also does not allow indirect cost rates to be used as part of a cost-share.

(5) Fund-raising expenses.

(6) Projects completed prior to the start of the biennium for which funding is made.

(7) Retirement of operational debts nor for construction, facility improvement, or purchase loans that are incurred prior to award date of grant or date of legislative approval.

#### NEW SECTION

**WAC 255-02-070 Application form.** Application forms shall be available from the agency. Applications shall be sent by direct mail to those who have requested placement on the capital projects fund mail list or to those who request an application. All applications must be completed and submitted in the format prescribed by the agency and must be submitted by the deadline established by the agency.

#### NEW SECTION

**WAC 255-02-080 Application review process.** The evaluation and review of applications shall be based on the written response and support materials provided in the application. Applications are reviewed initially by the staff of the Heritage Resource Center for eligibility. Once eligibility is determined, applications are then reviewed by a panel that makes funding recommendations.

#### NEW SECTION

**WAC 255-02-090 Contracting.** Applicants who have been approved for funding will be issued contracts based on a fiscal biennium beginning July 1 and ending June 30.

#### NEW SECTION

**WAC 255-02-100 Disbursement of funds.** Applicants should be prepared to finance their projects until reimbursed by the agency. Requests for payment shall be made on invoice vouchers provided by the agency.

#### NEW SECTION

**WAC 255-02-110 Appeal procedure.** There shall be a procedure for applicants to appeal the panel's decisions when there is evidence that information available at the time of the panel's action was, in the opinion of the appellant, either not included in the review or was not clearly understood.

(1) Appeals may not be made based on new information not available at the time of the original decision.

(2) Appeals must be presented in writing to the director of the Heritage Resource Center, outlining the nature of the appeal.

(3) The director, in consultation with the director of the Washington state historical society and the chairperson of the panel, shall reject or accept the appeal.

(4) Upon acceptance of the appeal the director shall notify the panel and arrange a special meeting. The appeal may be presented by the applicant at that time. The appeal must be presented in its entirety at that time and shall be considered final.

(5) The panel shall have five business work days to make a decision on the appeal.

(6) After final panel action on the appeal, the director shall notify the applicant of the decision in writing, within five working days after the date of the decision.

**WSR 98-04-060**  
**PROPOSED RULES**  
**WASHINGTON STATE**  
**HISTORICAL SOCIETY**  
[Filed February 2, 1998, 9:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-24-002.

Title of Rule: Public records.

Statutory Authority for Adoption: RCW 43.17.250.

Summary: Agencies are required to publish in the Washington Administrative Code procedures to inspect and copy public records.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Marie De Long, 1911 Pacific Avenue, Tacoma, WA 98402, (253) 798-5901.

Name of Proponent: Washington State Historical Society, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule is intended to bring the Washington State Historical Society into compliance with RCW 42.17.250 requiring agencies to public [publish] in the Washington Administrative Code procedures to inspect and copy public records.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Per RCW 19.85.025(2) which states that the chapter does not apply to the adoption of a rule described in RCW 34.05.310(4).

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 does not apply to rules adopting Washington state statutes.

Hearing Location: 1911 Pacific Avenue, Tacoma, WA 98402, on March 10, 1998, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Marie De Long by March 1, 1998.

Submit Written Comments to: Marie De Long, FAX (253) 272-9518, by March 1, 1998.

Date of Intended Adoption: March 17, 1998.

November 26, 1997

Marie De Long  
Administrative Officer

**Title 255 WAC**  
**WASHINGTON STATE HISTORICAL SOCIETY**

**Chapter 255-01 WAC**  
**PUBLIC RECORDS**

NEW SECTION

**WAC 255-01-010 Purpose.** The purpose of this chapter is to ensure compliance by the Washington state historical society with the provisions of chapter 27.34 RCW and RCW 42.17.250 through 42.17.348.

NEW SECTION

**WAC 255-01-020 Authority.** The Washington state historical society is authorized by chapter 27.34 RCW to adopt rules under the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

NEW SECTION

**WAC 255-01-030 Description of society's purpose.** The society is a state-wide membership organization that provides leadership in public historical education. It collects, preserves, and interprets materials exemplifying the history of the state. The society's mission guides its acquisitions, collections management, exhibitions and publications. To serve the citizens of Washington, the geographic emphasis for the society is the entire state, but for contextual purposes, the history of the northern American West and north Pacific regions, broadly conceived, fall within the scope of the society's concerns. Chronologically, the full sweep of human history in Washington is the society's arena, from initial habitation by the native peoples to the modern era.

NEW SECTION

**WAC 255-01-040 Organization.** The governing board of the society is its board of trustees which consists of officers, trustees and ex-officio members. The elective officers of the society shall be president, vice-president for eastern Washington, vice-president for western Washington, and treasurer. The director of the society serves as the secretary to the board of trustees. The trustees number not less than twenty and no more than thirty. The governor, secretary of state, superintendent of public instruction and legislators representing each of the four caucuses of the state legislature are ex-officio voting members of the board of trustees.

NEW SECTION

**WAC 255-01-050 Election of officers.** Election shall be by mail ballot to all qualified members of the society. Officers and trustees are elected to serve for three years, no more than ten to be elected annually. Trustees shall serve no more than three consecutive three-year terms. A majority of all ballots cast shall be necessary to elect.

NEW SECTION

**WAC 255-01-060 Office hours and location.** The administrative headquarters of the Washington state historical society is located at the Washington State History Museum, 1911 Pacific Avenue, Tacoma, WA 98402 (253)272-3500. The office is open each day for the transaction of business

from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

#### NEW SECTION

**WAC 255-01-070 Public records available.** All public records of the society are available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310.

#### NEW SECTION

**WAC 255-01-080 Public records officer.** The society's public records shall be in the charge of the public records officer designated by the executive director. The person so designated shall be located in the office. The public records officer shall be responsible for the following: The implementation of society policy in regard to the release of public records, coordinating the staff in this regard and generally insuring staff compliance with the public disclosure requirements of chapter 42.17 RCW.

#### NEW SECTION

**WAC 255-01-090 Inspection and copying.** Public records shall be available for inspection and copying from 9:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

#### NEW SECTION

**WAC 255-01-100 Requests for public records.** In accordance with the requirements of chapter 42.17 RCW, stipulating that agencies prevent unreasonable invasion of privacy, protect public records from damage or disorganization and prevent excessive interference with essential functions of the agency, public records may be inspected or copied, or copies of such records may be obtained, by members of the public upon compliance with the following procedures.

(1) A request shall be made in writing and shall be presented to the public records officer, or to another designated member of the staff if the public records officer is not available at the Washington State History Museum, 1911 Pacific Avenue, Tacoma, WA 98402. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time and date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the public records officer, a reference to the requested records as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the current index, an appropriate description of the record requested.

(2) The public records officer, or staff person assisting the member of the public making the request, will ascertain whether or not the information requested is exempt from public inspection and copying as defined in RCW 42.17.310.

(3) Only after a determination has been made that all or such portion of a public record as is not deleted may be inspected shall such public record or portion thereof be made available for inspection by a member of the public.

(4) In all cases, it shall be the obligation of the public records officer, or staff person to whom the request is made, to:

- (a) Locate the specific document(s) request by the member of the public in the most timely manner possible;
- (b) Assist the member of the public in appropriately identifying the public record requested;
- (c) Protect and otherwise prevent damage to the public record being inspected and copied;
- (d) Prevent disorganization of file folders or document containers;

(e) Remain in the company of the member of the public at all times during which a public document is being inspected, and provide the fullest assistance possible;

(f) Prevent excessive interference with the other essential functions of the agency.

(5) Only the staff and trustees of the society may open files to gain access to society records.

(6) No public record of the society may be taken from the premises of the society by a member of the public.

(7) Public inspection of society records shall be done only in such locations as are approved by the public records officer, which locations must provide an opportunity for staff to ensure that no public record of the society is damaged, destroyed, unreasonably disorganized or removed from its proper location or order by a member of the public.

(8) Public records of the society may be copied only on the copying machine of the society unless other arrangements are authorized by the public records officer.

#### NEW SECTION

**WAC 255-01-110 Copying.** No fee shall be charged for inspection of public records. The society shall charge a fee of ten cents per page for copies of public records and the use of society copy equipment. This charge is the amount necessary to reimburse the society for its actual cost incident to such copying. If the public records officer deems it more efficient to have the copying done outside of the society, the charges will be based on the actual costs of such outside copying service. For all copying service charges incurred, an invoice will be sent to the requester. Reimbursement is payable within fifteen days of receipt of invoice payable to the Washington state historical society.

#### NEW SECTION

**WAC 255-01-120 Exemptions.** (1) The society reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 255-01-100 is exempt under the provisions of RCW 42.17.310.

(2) Pursuant to RCW 42.17.260, the society reserves the right to delete identifying details when it makes available or publishes any public record in any cases where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will justify such deletion in writing.

(3) All denials of request for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief

explanation of how the exemption applies to the withheld record.

#### NEW SECTION

**WAC 255-01-130 Review of denials of public records requests.** (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by rendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff person which constituted or accompanied the denial.

(2) Immediately after receiving a written request or review of a decision denying a public record, the public records officer or other staff person denying the request shall refer it to the executive director or designee. The executive director shall immediately consider the matter and either affirm or reverse such denial. In any case, the request shall be returned with a final decision, within two days following the written request for review of the original denial. Whenever possible, the executive director or designee shall first consult with the office of the attorney general.

(3) Administrative remedies shall not be considered exhausted until the executive director has returned the petition with a decision or until the close of the second business day following the request for review, whichever occurs first.

#### NEW SECTION

**WAC 255-01-140 Protection of public records.** Unless approved by the executive director, records shall not be removed from the place designated for their inspection. The public records officer may make reasonable arrangements for ensuring the security of the record(s) during inspections.

#### **WSR 98-04-069**

#### **WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF ECOLOGY**

(By the Code Reviser's Office)

[Filed February 3, 1998, 8:30 a.m.]

WAC 173-202-020, proposed by the Department of Ecology in WSR 97-15-130, appearing in issue 97-15 of the State Register, which was distributed on August 6, 1997, 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 98-04-070**

#### **WITHDRAWAL OF PROPOSED RULES SUPERINTENDENT OF PUBLIC INSTRUCTION**

(By the Code Reviser's Office)

[Filed February 3, 1998, 8:31 a.m.]

WAC 392-121-182 in WSR 97-15-073 and WAC 392-134-005, 392-134-010, 392-134-020 and 392-134-025 in WSR 97-15-074, proposed by the Superintendent of Public Instruction, appearing in issue 97-15 of the State Register, which was distributed on August 6, 1997, 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 98-04-071**

#### **PROPOSED RULES DEPARTMENT OF LICENSING**

[Filed February 3, 1998, 9:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-21-104.

Title of Rule: Chapter 308-96A WAC, Vehicle licenses, WAC 308-96A-065 through 308-96A-073, 308-96A-175, and 308-96A-176.

Purpose: (1) Identify who may apply for specialized plates and what is required to do so; and (2) to meet the criteria set forth in Governor Locke's Executive Order 97-02.

Statutory Authority for Adoption: RCW 46.01.110, 46.16.335.

Summary: WAC 308-96A-065 Personalized license plates, clarification, WAC 308-96A-066 Denial or cancellation of personalized license plates, clarification, new section WAC 308-96A-067 Reissuance or reinstatement of personalized license plates, clarification, new section WAC 308-96A-068 Issuance of personalized license plates, clarification, WAC 308-96A-070 Amateur radio operation special license plates, clarification, WAC 308-96A-071 Military affiliate radio system special plates, clarification, WAC 308-96A-073 Vehicle over forty years old—Horseless carriage plates, clarification, WAC 308-96A-074 Vehicles over thirty years old—Collector vehicle plates, clarification, WAC 308-96A-175 Ride-sharing vehicles, clarification, and WAC 308-96A-176 Transportation needs ride-sharing vehicles, clarification.

Reasons Supporting Proposal: Meet criteria supporting Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: Patrick Zlateff, 1125 Washington Street S.E., Olympia, (360) 902-3718; Implementation: Nancy Kelly, 1125 Washington Street S.E., Olympia, (360) 902-3754; and Enforcement: Eric Anderson, 1125 Washington Street S.E., Olympia, (360) 902-4045.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The WAC will provide a better understanding of what is needed to qualify and purchase special license plates.

Proposal Changes the Following Existing Rules: Clarify sections needed and repeal those no longer required.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in an industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The content of the proposed rules are explicitly and specifically dictated by statute.

Hearing Location: Highways-Licenses Building, Conference Room 309, 1125 Washington Street, Olympia, WA 98507, on March 16, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Pat Zlateff by March 13, 1998, TDD (360) 664-8885, or (360) 902-3718.

Submit Written Comments to: Patrick Zlateff, Rules Coordinator, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, FAX (360) 664-0831, by March 13, 1998.

Date of Intended Adoption: March 23, 1998.

February 3, 1998

Nancy S. Kelly, Administrator  
Title and Registration Services

**AMENDATORY SECTION** (Amending WSR 91-15-006, filed 7/8/91, effective 8/8/91)

**WAC 308-96A-065 Disposition of personalized license plates.** (1) ~~((The registered owner of a vehicle may apply for personalized license plates with any acceptable and unassigned combination of one to seven letters, numbers, or combination of both pursuant to RCW 46.16.565 through 46.16.600. Single digit plates shall not be assigned the letters "I" or "O," nor the numbers "1" (one) or "0" (zero).~~

~~(2) When a vehicle with personalized plates is sold, transferred or destroyed, the owner shall remove the plates from the vehicle. The owner may retain the plates for transfer to a replacement vehicle or return the plates to the department, relinquishing the right to the letter and/or number sequence or combination, or relinquish the plates to another individual by signing a notarized release of interest in the plates. The person to whom the plates were transferred must within fifteen days make application to have the plates transferred to a vehicle registered to the person.~~

~~(3) When the owner of a personalized plate fails to renew the license within forty five days following the renewal due date or fails to have the plate transferred to a replacement vehicle within thirty days from the sale, transfer, or destruction of the original vehicle, the plates will be cancelled.~~

~~(4) Cancelled personalized plates may be reissued anytime after cancellation if the department determines a renewal application was not applied for prior to the cancellation.~~

~~(5) A personalized license plate reported stolen may not be reissued until the stolen plate is removed from the Washington Crime Information Center (WACIC) records or for five years from the date the plate is reported stolen~~

~~whichever comes first. The plate shall be reserved for the last owner for a period of thirty days after it becomes eligible for reissue. If the last owner of the plate makes an application for reissue as a replacement within the thirty days, the plate shall be provided at the replacement plate fee then in effect.~~

~~(6) The combination of letters and/or digits on a personalized license plate which has been cancelled may be reassigned to an applicant who applies for an original personalized plate with that combination of letters and/or digits and pays the fees for an original personalized plate.)~~  
If the owner(s) of a vehicle displaying personalized license plates sells the vehicle to a wrecker or accepts a total loss claim from his or her insurance company and chooses not to retain the salvage, the owner must either transfer the plates to another vehicle within thirty days or turn the plates in to the department with a notarized release of interest from the owner(s) relinquishing the right to that personalized license plate configuration.

(2) If the owner(s) of a vehicle with personalized license plates sells, trades or otherwise transfers ownership of the vehicle, he or she may transfer the plates to another vehicle within thirty days; or turn the plates in to the department with a notarized release of interest from the owner(s) relinquishing the right to that personalized license plate configuration; or transfer the plates to a new owner. If the plates are transferred to a new owner, the current owner must provide the new owner with a notarized/certified release of interest for the plates. The new owner must make application to the department within twenty-five days, including payment of the original personalized license plate fee.

**AMENDATORY SECTION** (Amending WSR 93-14-083, filed 6/30/93, effective 7/31/93)

**WAC 308-96A-066 Denial or cancellation of personalized license plates**~~((—Denied or canceled)).~~ (1) ~~((An application for a personalized license plate may be denied, at the discretion of the department, when the department considers the combination of letters and numbers to be offensive to good taste or decency, which may be misleading, vulgar in nature, a racial ethnic, lifestyle or gender slur, related to illegal activities or substances, blasphemous, or contrary to the department's mission to promote highway safety.~~

~~(2) A personalized license plate may be canceled at the discretion of the department if after being issued the department determines the combination of letters and numbers to be offensive to good taste or decency by being profane, sexually suggestive, alcohol or drug related, racist, derogatory, or slanderous, or which could be misleading or a duplicate of license plates provided in chapter 46.16 RCW.~~

~~(a) When a personalized license plate is canceled, the vehicle owner will be refunded the amount of the fee paid pursuant to RCW 46.16.585 and 46.16.606 for such license plate; or~~

~~(b) Instead of a refund, the owner may apply for and be issued another configured personalized license plate without payment of an additional personalized license plate fee.)~~  
The department may deny an application for personalized

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license plates or cancel personalized license plates previously issued if it determines the plate configuration to be:

- (a) Offensive to good taste and decency;
- (b) Potentially misleading;
- (c) Vulgar, profane or sexually suggestive in nature;
- (d) A racial, ethnic, lifestyle or gender slur;
- (e) Related to alcohol or to illegal activities or substanc-

es;

- (f) Blasphemous;
- (g) Derogatory;
- (h) Slanderous;
- (i) A duplication of license plate or decal numbers provided in chapter 46.09, 46.10 or 46.16 RCW; or

(j) Contrary to the department's mission to promote highway safety.

(2) If the personalized license plates are cancelled due to one or more reasons specified in subsection (1) of this section, the vehicle owner may:

(a) Apply for a refund for the fee paid under RCW 46.16.585 and 46.16.606 for such license plates; or

(b) Instead of a refund, apply for and upon approval be issued personalized license plates with a different configuration without payment of additional personalized license plate fees.

(3) The department may cancel personalized license plates if they are:

(a) Not renewed by the owner within forty-five days of the vehicle expiration; or

(b) Removed from a vehicle and not transferred to a replacement vehicle within thirty days; or

(c) Transferred to a new owner who does not make proper application for the plates within twenty-five days; or

(d) Reported stolen.

#### NEW SECTION

**WAC 308-96A-067 Reissuance or reinstatement of personalized license plates.** (1) The owner of a personalized license plate who does not renew it within forty-five days shall reapply and pay the original personalized license plate fee in order to reinstate the plate.

(2) The new owner of a personalized license plate who does not apply to the department within twenty-five days from the date of transfer from the previous owner forfeits ownership of the plate. The department will make that personalized plate available to the first applicant for that plate configuration.

(3) The owner of a personalized license plate who does not transfer the plate as described in WAC 308-96A-065(2) shall reapply and pay the original personalized license plate fee in order to reinstate the plate.

(4) The department may not reissue a stolen personalized license plate to the same owner or a new owner until:

(a) The stolen plate record is removed from the Washington Crime Information Center (WACIC) records; or

(b) Five years from the date the plates are reported stolen, whichever comes first. If the plates are stolen, the plates will be reserved for the owner of record for thirty days after they become eligible for reissue. If the last owner makes an application for reissue within these thirty days, then the plate may be provided at the replacement plate fee and the personalized license plate renewal fee then in effect.

#### NEW SECTION

**WAC 308-96A-068 Issuance of personalized license plates.** Personalized license plates may be issued with one to seven letters or numbers. The letters "I" and "O" and the numbers "1" (one) and "0" (zero) may not be issued as single-digit plates.

AMENDATORY SECTION (Amending WSR 91-04-025, filed 1/29/91, effective 3/1/91)

**WAC 308-96A-070 Amateur radio operator special license plates.** (1) ~~(Every person having a valid amateur radio operator's license is entitled to apply to the department in Olympia, Washington, upon a satisfactory showing, to receive in lieu of the regular motor vehicle license plates, similar plates bearing the official amateur radio call letters assigned by the Federal Communications Commission (F.C.C.). Only one set of plates carrying call letters may be issued to an amateur radio operator at any one time.~~

~~(2) An application for special amateur radio operator license plates must be accompanied by a photocopy of the official amateur radio operator license issued by the F.C.C. When the F.C.C. license expires, the operator must notify the department of the expiration and if a renewed F.C.C. license is obtained, furnish a copy of the new license.~~

~~(3) An applicant for special amateur radio operator license plates must be the registered owner of the vehicle for which the plates will be issued. Special amateur radio operator license plates issued prior to January 1, 1991, for vehicles not owned by the amateur radio operator, may continue to be used until the operator no longer has an interest in the vehicle. It is the responsibility of the registered owner to apply for replacement license plates when the special amateur radio operator license plate is no longer authorized.~~

~~(4) In addition to paying all other license fees required by law, each applicant for special amateur radio operator license plates shall pay an additional license fee of five dollars.~~

~~(5) In addition to paying all other license fees required by law, each applicant when applying for transfer of their special amateur radio operator license plates to another vehicle shall pay an additional license fee of five dollars.~~

~~(6) The department shall furnish a list of the names, addresses, and license plate call letters to the state department of community development, Washington state patrol, and all county sheriffs upon request. The lists shall be used only in the performance of official duties of these government agencies and shall not be released for any other purpose.~~

~~(7) Any amateur radio operator who holds a special amateur radio operator license plate as issued under this section who has allowed his or her F.C.C. license to expire, or for any reason no longer has an official valid F.C.C. license, shall notify the department in writing within thirty days of the F.C.C. license becoming invalid and surrender his or her special amateur radio operator license plates. Special amateur radio operator license plates are deemed to be cancelled on the date the F.C.C. license becomes invalid. Failure to notify the department and surrender plates is a traffic infraction. The special plate may be reinstated by applying for and paying the fee for a new special plate.)~~



Any person having a valid amateur radio operator's license may apply to the department for license plates bearing the official amateur radio call letters assigned by the Federal Communications Commission (F.C.C.). These plates are in lieu of regular issue license plates. The department may issue only one set of these plates at any one time carrying these call letters.

(2) The amateur radio operator shall attach a copy of his or her current F.C.C. license to the application for these plates. The operator must notify the department when the F.C.C. license is cancelled or expires and whether or not the operator has renewed the license. If the license has been renewed, the operator shall send a copy of the new F.C.C. license to the department. If the F.C.C. license has not been renewed the department may cancel the amateur radio operator license plates.

(3) The amateur radio operator license plates shall be displayed on a motor vehicle owned by the amateur radio operator unless the plates were issued and assigned to a vehicle prior to January 1, 1991.

(4) In addition to all other license fees required by law, each applicant for amateur radio operator license plates shall pay an additional license plate fee of five dollars for the plate and an additional five dollars any time the plates are transferred to another vehicle.

(5) The effective date of the plate cancellation is the date the F.C.C. license becomes invalid. Reinstatement of the plates requires the amateur radio operator to reapply for the plates, providing a copy of the valid F.C.C. license and paying the five-dollar fee for a new plate.

AMENDATORY SECTION (Amending WSR 91-15-006, filed 7/8/91, effective 8/8/91)

WAC 308-96A-071 Military affiliate radio system special license plates. (1) Any (~~Washington state resident holding~~) person having a valid Military Affiliate Radio System station license (MARS) (~~is entitled to~~) may apply to the department (~~in Olympia, Washington, and upon satisfactory showing, to receive in lieu of regular vehicle license plates, similar~~) for license plates bearing the official MARS call (~~sign~~) letters assigned by the Department of Defense. These plates are in lieu of regular issue license plates. The department may issue only one set of (~~license~~) these plates (~~reflecting the call sign may be issued to the MARS station licensee~~) at any one time carrying these call letters.

(2) An (~~application~~) applicant for (~~special~~) MARS license plates (~~must be accompanied by a photocopy~~) shall attach a copy of (~~the~~) his or her current official MARS station license authorized by the Department of Defense and issued by the United States Army, Air Force, or Navy/Marine Corps. The recipient of these plates must notify the department when the MARS station license has been cancelled or expires, (~~the applicant must notify the department of the expiration and if a renewed license is obtained, furnish~~) and whether or not he or she has renewed the license. If the license has been renewed, the MARS station license holder shall send a copy of the new MARS license to the department. If the MARS station license has not been renewed the department may cancel the MARS license plates.

(3) (~~An applicant for special~~) The MARS license plates (~~must~~) shall be (~~the registered owner of the Washington state registered~~) displayed on a motor vehicle (~~for which the special license plates will be issued~~) owned by the MARS station license holder.

(4) In addition to (~~paying~~) all other license fees (~~and excise taxes~~) required by law, each applicant for (~~an original special~~) MARS license plates shall pay an additional license plate fee of five dollars for the plate and an additional five dollars any time the plates are transferred to another vehicle.

(5) (~~In addition to paying all other license fees required by law, each applicant when applying for transfer of their special MARS license plates to another vehicle shall pay an additional license fee of five dollars.~~)

(6) Any MARS station licensee who holds a special vehicle license plate issued under this section and who has allowed the station license to expire, or for any reason no longer has an official valid MARS station license, shall notify the department in writing within thirty days of the license becoming invalid and surrender the special MARS vehicle license plates. Special MARS vehicle license plates are deemed to be cancelled on the date the MARS station license becomes invalid. Failure to notify the department and surrender the vehicle license plates is a traffic infraction. The special plates may be reinstated by applying for and paying the fee for a new special plate.) The effective date of a plate cancellation is the date the MARS station license becomes invalid. Reinstatement of the plates requires the MARS station license holder to reapply for the plates, providing a copy of the valid MARS license and paying the five-dollar fee for a new plate.

AMENDATORY SECTION (Amending WSR 97-07-014, filed 3/11/97, effective 4/11/97)

WAC 308-96A-073 Vehicles over forty years old—Horseless carriage plates. (1) (~~Any motor vehicle which is at least forty years old and is owned and operated primarily as a collector vehicle shall, upon application and acceptance by the department, be issued one special horseless carriage commemorative license plate in lieu of a regular license plate. Any vehicle to be so licensed must be capable of being operated upon the highway.~~)

(2) In addition to paying all other license fees required by law, each applicant for a horseless carriage commemorative license plate shall pay an additional license fee of thirty-five dollars.

(3) The special license plate shall be issued for the life of the vehicle and shall be transferred with the vehicle. The single plate shall be displayed on the rear of the vehicle.

(4) Horseless carriage commemorative license plates shall be assigned a separate "horseless carriage" series.) The owners of any motor vehicle which is:

- (a) At least forty years old; and
- (b) Capable of being operated upon the highway; and
- (c) Currently registered in Washington; and
- (d) Operated primarily as a collector vehicle may apply

to the department for a special horseless carriage license plate to be used in lieu of regular issue license plates. The department, upon approval of application, shall issue a horseless carriage plate for this vehicle.

(2) The horseless carriage license plate must be displayed on the vehicle for which it was issued and must stay with that vehicle upon transfer of ownership of the vehicle. The owner shall display the single plate on the rear of the vehicle.

(3) In addition to all other license fees required by law, the applicant shall pay an additional license fee of forty dollars for this horseless carriage license plate.

AMENDATORY SECTION (Amending WSR 97-07-014, filed 3/11/97, effective 4/11/97)

WAC 308-96A-074 Vehicles over thirty years old—Collector vehicle license plates. (1) ~~((Any motor vehicle which is at least thirty years old and is owned and operated primarily as a collector vehicle shall, upon application and acceptance by the department, be issued one special collector vehicle license plate in lieu of a regular license plate. Any vehicle so licensed must be capable of being operated upon the highway.~~

~~(2) In lieu of a collector vehicle license plate the applicant may be authorized to display a Washington state issued vehicle license plate designated for use in the year of the vehicle's manufacture.~~

~~(3) In addition to paying all other license fees required by law, each applicant for a collector vehicle license plate shall pay an additional license fee of thirty five dollars.~~

~~(4) Collector vehicle license plates are valid for the life of the vehicle and shall be transferred with the vehicle. The license plate shall be displayed on the rear of the vehicle.~~

~~(5) Collector vehicle license plates shall be assigned a separate "collector vehicle" series-)) The owners of any motor vehicle which is:~~

~~(a) At least thirty years old; and~~

~~(b) Capable of being operated upon the highway; and~~

~~(c) Currently registered in Washington; and~~

~~(d) Operated primarily as a collector vehicle may apply to the department for a special collector vehicle license plate. The department, if satisfied the application is in order, shall issue a collector vehicle license plate for this vehicle.~~

(2) The collector vehicle license plate must be displayed on the vehicle for which it was issued and must stay with that vehicle upon transfer of ownership of the vehicle. The owner shall display the single plate on the rear of the vehicle.

(3) Instead of a collector vehicle license plate, the owner may be authorized to display a Washington state issued vehicle license plate designated for use in the year of the vehicle's manufacture. This plate must be displayed on the vehicle for which it was issued but may be retained by the owner if the vehicle ownership changes. The owner shall display the single plate on the rear of the vehicle.

(4) In addition to all other license fees required by law, the applicant shall pay an additional license fee of forty dollars for this collector vehicle license plate described in subsections (2) and (3) of this section.

AMENDATORY SECTION (Amending WSR 96-21-043, filed 10/11/96, effective 11/11/96)

WAC 308-96A-175 Ride-sharing vehicles. (1) The owner of a passenger motor vehicle primarily used as a commute ride-sharing vehicle defined in RCW 46.74.010(1)

may be issued special ride share license plates by satisfying the provisions of RCW 46.16.023. Any person desiring the special ride share license plates shall make application on a form ~~((provided))~~ approved by the department and~~((~~

~~((a)))~~ pay all fees required pursuant to chapter 46.12 RCW and the special ride share license plate fee required by RCW 46.16.023~~((and~~

~~((b)))~~. The owner shall then provide:

(a) For privately owned vehicles, ~~((provide))~~ a list of the riders registered to use the ride-sharing vehicle, including the names, addresses and signatures ~~((thereof))~~ of the riders and driver. For five and six passenger vehicles being used in a commute trip reduction program, the list shall be a copy of the certification of registration in a commute trip reduction program either with a public transportation agency or a major employer; or

~~((e)))~~ (b) For vehicles operated by public transportation agencies or by major employers defined in RCW 70.94.524 in commute trip reduction programs, ~~((provide))~~ a written statement that the vehicle is used as a commuter ride-sharing vehicle.

(2) A passenger motor vehicle owned, rented or leased by a government agency ~~((will))~~ may be issued special ride share license plates for the vehicle described on the approved ride-sharing application. ~~((The license plates may not be transferred to any other vehicle without obtaining an approved ride-sharing application for the other))~~

(3) In order to transfer license plates to another vehicle, the owner shall make:

(a) Application to and receive approval by the department for the replacement passenger motor vehicle; and

(b) Payment of a five dollar license plate transfer fee and appropriate licensing fees.

~~((3)))~~ (4) When special ride share license plates are removed from or transferred to another vehicle, ~~((a replacement))~~ the owner shall:

(a) Purchase replacement license plates ~~((fee))~~; and

(b) Pay vehicle excise tax ~~((abated))~~ for the remaining license registration period for the vehicle ~~((from which exemption is being removed shall be collected. If the exemption is being removed within thirty six consecutive months from obtaining the exemption, the full use or sales tax amounts originally exempted shall be due and payable to the department of revenue. An application for exemption for the vehicle on which the special license plates are to be transferred must be filed pursuant to subsection (1) of this section with payment of the license plate transfer fee provided in RCW 46.16.023(2)).~~

~~((4)))~~ (5) When a ride-sharing vehicle is sold or transferred to another person who will continue to use the passenger motor vehicle as a commuter ride-sharing vehicle, the new owner shall ~~((make application for))~~:

(a) Apply for a certificate of ownership ~~((pursuant to))~~ under chapter 46.12 RCW~~((and))~~;

(b) Apply for commuter ride-sharing exemption ~~((as provided herein))~~; and

(c) Pay all required fees and taxes including the special license plate fee.

~~((5)))~~ (6) Upon application for registration renewal, the owners of nongovernment ride share plated vehicles ~~((must))~~ shall:

(a) Recertify that the vehicle is used as a commuter ride-sharing vehicle to continue to be exempt from chapters 82.08, 82.12, and 82.44 RCW (~~(The department will provide recertification forms to ride sharing vehicle registered owners for filing with registration renewal applications); and~~); and

(b) Submit a completed recertification form, approved by the department, including names, addresses, and signatures of current passengers and drivers (~~(is required to renew registration of a ride sharing vehicle)~~). (~~(Failure)~~) If the registered owner fails to file a completed recertification form ((will cause) the department will cancel the special ride share license plates ((to be canceled)) and the registered owner will need to purchase replacement plates ((will need to be purchased)) and pay applicable fees and taxes ((paid)) to complete registration renewal.

AMENDATORY SECTION (Amending WSR 96-21-043, filed 10/11/96, effective 11/11/96)

**WAC 308-96A-176 Transportation needs ride-sharing vehicles.** (1) Private, nonprofit transportation providers (~~(providing)~~) furnishing ride sharing for persons with special transportation needs (~~(pursuant to)~~) under chapter 81.66 RCW, may be issued special ride share license plates (~~(pursuant to)~~) under RCW 46.16.023 for passenger motor vehicles. The transportation provider shall make application for special ride share license plates ((shall be made)) on a form((s provided)) approved by the department ((and)). The application shall include:

(a) A copy of the utilities and transportation commission's operating certificate authorizing the organization to operate in this state;

(b) Payment of all fees required (~~(pursuant to)~~) under chapter 46.12 RCW; and

(c) Payment for the special ride share license plate fee as provided in RCW 46.16.023.

(2) For purposes of this section, a passenger motor vehicle is defined as:

(a) A motor vehicle titled with a use class of PAS, but does not include a motorhome;

(b) A bus with a seating capacity of fifteen or less including the driver;

(c) A cutaway, defined as a van or light truck cut off behind the cab, a bus type body permanently affixed to the frame behind the cab, and a seating capacity of fifteen or less including the driver. A cutaway does not include a motorhome; and

(d) A modified van, not more than twenty-eight feet in overall length, and a seating capacity of fifteen or less including the driver. A modified van does not include a motorhome.

(3) When the transportation provider removes the special ride share license plates ((are removed from)) or ((transferred)) transfers the plates to another vehicle owned by the transportation provider, (~~(a)~~) replacement license plates fee and vehicle excise tax abated for the remaining license registration period for the vehicle, from which exemption is being removed, shall be collected. If the exemption is being removed within thirty-six consecutive months from obtaining the exemption, the full use or sales tax amount originally exempted shall be due and payable to

the department of revenue. An application for exemption for the vehicle on which the special license plates are to be transferred must be filed pursuant to subsection (1) of this section with payment of the license plate transfer fee provided in RCW 46.16.023(2).

(4) Upon application for registration renewal, the transportation provider must recertify that the vehicle is still being used to provide transportation for persons with special transportation needs to continue to be exempt from chapters 82.08 and 82.44 RCW. The department will provide recertification forms to ride-sharing vehicle registered owners for filing with registration renewal applications.

**WSR 98-04-072**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
[Filed February 3, 1998, 9:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-21-103.

Title of Rule: Chapter 308-94 WAC, Snowmobiles and off-road and nonhighway vehicles, WAC 308-94-030 through 308-94-110.

Purpose: (1) Clarify the requirement to register snowmobiles in a variety of situations; and (2) to meet criteria set forth in Governor Locke's Executive Order 97-02.

Statutory Authority for Adoption: RCW 46.01.110.

Summary: WAC 308-94-030 Application for registration, clarification, WAC 308-94-040 Snowmobile registration year, repeal, combine with another WAC section, WAC 308-94-050 Registration certificate, clarification, WAC 308-94-070 Display of snowmobile registration number, repeal, combine with another WAC section, WAC 308-94-080 Nonresident temporary snowmobile permit, clarification, WAC 308-94-090 Rented snowmobiles, repeal, WAC 308-94-100 Snowmobile dealer license, license plates, costs, rented snowmobiles, clarification, and WAC 308-94-110 Snowmobile dealer plates—Cost, repeal.

Reasons Supporting Proposal: Meet criteria supporting Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: Patrick Zlateff, 1125 Washington Street S.E., Olympia, (360) 902-3718; Implementation: Nancy Kelly, 1125 Washington Street S.E., Olympia, (360) 902-3754; and Enforcement: Eric Andersen, 1125 Washington Street S.E., Olympia, (360) 902-4045.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rules explain the registration procedures and costs for the operation of a snowmobile in Washington state. The purpose is to clarify, simplify and delete parts that are no longer needed. The anticipated effects are clear procedures that are written in a more readable and understandable form.

Proposal Changes the Following Existing Rules: Clarify sections as needed and repeal those no longer required.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW

PROPOSED

19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in an industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The content of the proposed rules are explicitly and specifically dictated by statute.

Hearing Location: Highways-Licenses Building, Conference Room 303, 1125 Washington Street, Olympia, WA 98507, on March 16, 1998, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Pat Zlateff by March 13, 1998, TDD (360) 664-8885, or (360) 902-3718.

Submit Written Comments to: Patrick Zlateff, Rules Coordinator, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, FAX (360) 664-0831, by March 13, 1998.

Date of Intended Adoption: March 23, 1998.

February 3, 1998

Nancy S. Kelly, Administrator  
Title and Registration Services

AMENDATORY SECTION (Amending WSR 96-04-004, filed 1/25/96, effective 2/25/96)

WAC 308-94-030 ((Application for registration.))  
Snowmobile registration application—Registration year.  
((An application for registration of a snowmobile shall include:

(1) Name and address, and department assigned customer account number upon request, of each registered and legal owner(s);

(2) Make and model year of snowmobile;

(3) Method of propulsion, including but not limited to skis, tracks, wheels or combination thereof;

(4) Purchase price and year of purchase or declared value and year of declaration;

(5) Proof of payment of sales tax or a bill of sale establishing the price paid for the vehicle;

(6) The previously issued registration certificate or a duplicate thereof, or a bill of sale if the application is for the transfer of a registered snowmobile. If the snowmobile has not been previously registered in this state, a bill of sale or a purchase agreement shall be provided;

(7) Vehicle identification number; and

(8) Appropriate fees.)) (1) An application for an original or transfer registration of a snowmobile shall include:

(a) The name and address, and department assigned customer account number upon request, of each registered owner(s); and

(b) The make, vehicle identification number, model year, and method of propulsion of the snowmobile; and

(c) The purchase price and year of purchase or declared value and year of declaration; and

(d) Proof of payment of sales tax, satisfactory proof that sales or use tax is not due as established by the department of revenue, or the payment of use tax; and

(e) A copy of any of the following:

(i) Previously issued registration certificate;

(ii) Certificate of ownership;

(iii) Manufacturer's certificate of origin;

(iv) A bill of sale;

(v) A purchase agreement; or

(vi) Other department approved documentation; and

(f) A notarized or certified release of interest from owner(s) of record or certificate of fact explaining how the snowmobile was acquired; and

(g) Appropriate fees.

(2) Security interests shall be recorded with the Uniform Commercial Code Section of the department, and shall not be recorded on the snowmobile registration.

(3) The registration year for snowmobiles shall be October 1 through September 30 of the following year. Regardless of the date acquired, there is no abatement of the snowmobile registration fee.

AMENDATORY SECTION (Amending Order TL/RG 29, filed 1/16/87)

WAC 308-94-050 Snowmobile registration ((certificate)), decals and validating tabs—Display. ((The)) (1) A snowmobile registration certificate ((must)) shall be:

(a) Carried in the snowmobile((-)) for which it was issued; or ((on))

(b) Carried on the person of the snowmobile operator; and ((must))

(c) Be made available for inspection by any person having the authority to enforce the provisions of the snowmobile act.

(2) Snowmobile decals showing the registration number shall be:

(a) Affixed to the right and left sides or on the front and rear of the snowmobile; and

(b) Located so that snow, passenger, driver or load will not obscure them.

(3) Month tabs shall be located no more than two inches from the front of the decals showing the registration number. Validating year tabs shall be located no more than two inches from the last digit of the decals showing the registration number.

AMENDATORY SECTION (Amending WSR 92-15-021, filed 7/6/92, effective 8/6/92)

WAC 308-94-080 Nonresident temporary snowmobile permit. An application for a nonresident temporary permit shall include:

(1) Name and address of the applicant;

(2) Plate or registration number and expiration date, if registered in another jurisdiction;

(3) Make ((and year of vehicle;

(4) Vehicle identification number;

(5) Method of propulsion, including but not limited to skis, tracks, wheels, or combination thereof;

(6) Appropriate fees; and

(7) Expiration date of the foreign registration if registered in another jurisdiction)), vehicle identification number, model year, and method of propulsion of the snowmobile; and

(4) Appropriate fees.

AMENDATORY SECTION (Amending Order TL/RG 29, filed 1/16/87)

WAC 308-94-100 Snowmobile dealer ((permit)) license, license plates, costs, rented snowmobiles. ((The snowmobile dealer permit will be effective for one calendar

PROPOSED

~~year, except for the initial staggered dealer permit period when the director will assign staggered renewal dates. If a dealer purchases snowmobile dealer plates, they must be used for testing or demonstrating a snowmobile. A dealer may not test or demonstrate a snowmobile without either a valid registration or a valid dealer plate.))~~ Snowmobile dealer licenses shall be effective for one year from the date of issue.

(1) A dealer may not test or demonstrate a snowmobile without either a valid Washington snowmobile registration or a valid snowmobile dealer license plate.

(2) A snowmobile dealer shall pay three dollars and fifty cents plus the fifty cent reflectorization fee for each dealer plate ordered from the department.

(3) Snowmobile dealer license plates may be used only for testing or demonstrating a snowmobile and shall be displayed on the snowmobile so that snow, passenger, driver or load will not obscure the license plate.

(4) Snowmobile dealer license plates shall not be used on rented snowmobiles.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 308-94-040 Snowmobile registration year.
- WAC 308-94-070 Display of snowmobile registration number, decals and validation tabs.
- WAC 308-94-090 Rented snowmobiles.
- WAC 308-94-110 Snowmobile dealer plates—Cost.

**WSR 98-04-073**  
**PROPOSED RULES**  
**LOTTERY COMMISSION**  
 [Filed February 4, 1998, 8:40 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 97-16-092 and 97-24-077.

Title of Rule: New sections WAC 315-36-010 What is Lucky 21 and how do I play? WAC 315-36-020 How much does a ticket cost? WAC 315-36-030 What are the prizes for Lucky 21? WAC 315-36-040 Can I win more than once on one ticket? WAC 315-36-050 How is the winning set of numbers selected? WAC 315-36-060 How often is the winning set of numbers chosen? WAC 315-36-070 Where can I buy or redeem Lucky 21 tickets? WAC 315-36-080 What information is included on a Lucky 21 ticket and playslip? WAC 315-36-090 What are the odds of winning Lucky 21? WAC 315-36-100 If more than one person per drawing wins the grand prize, does each person receive the entire prize of \$1,000 for life or is the prize split among the winners? WAC 315-36-110 How is the "win for life" type grand prize paid? WAC 315-36-120 How are prizes, other than the "win for life" type grand prize, paid? WAC 315-36-130 What happens to unclaimed Lucky 21 prizes? WAC 315-36-140 Definitions for Lucky 21. WAC 315-36-150 Suspension or termination of Lucky 21.

Amendatory sections WAC 315-02-030 Address of commission. WAC 315-02-040 Commission activities exempt from Environmental Protection Act. WAC 315-02-060 Address of the office of the director. WAC 315-02-070 Office of the director activities exempt from Environmental Protection Act. WAC 315-02-080 Filing of adopted rules. WAC 315-02-220 Ticket defined. WAC 315-10-010 Instant games—Authorized—Director's authority. WAC 315-10-020 Definitions. WAC 315-10-023 What are the prizes available for instant games? WAC 315-10-024 What are the methods of selecting winning tickets? WAC 315-10-025 How much does it cost to purchase an instant game ticket? WAC 315-10-030 Instant games criteria.

Purpose: To establish game play rules and criteria for determining winners for a new on-line game, "Lucky 21;" and to amend chapter 315-02 and 315-10 WAC.

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: See Purpose above.

Reasons Supporting Proposal: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Mary Jane Ferguson, Rules Coordinator, Olympia, (360) 753-1947; Implementation and Enforcement: Merritt D. Long, Director, Olympia, (360) 753-3330.

Name of Proponent: Washington State Lottery Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 315-36 WAC, explains how the Lucky 21 game functions to players and licensed retailers. Lucky 21 is a new on-line game started for the purpose of meeting the lottery's statutory obligation to produce the maximum amount of net revenues for the state consonant with the dignity of the state and the general welfare of the people.

Proposal Changes the Following Existing Rules: Chapter 315-02 WAC, General provisions and definitions, these amendments continue the lottery's review and revision of lottery rules pursuant to Executive Order 97-03, Regulatory Improvement. These amendments update the rules and repeal redundant sections.

Chapter 315-10 WAC, Instant game general rules, these amendments streamline the process for producing instant game rules and will allow the lottery to produce new games more efficiently, thereby maximizing state revenues.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The lottery has considered whether these rules are subject to the Regulatory Fairness Act, chapter 19.85 RCW, and has determined that they are not for the following reasons: (1) The rules have no economic impact on businesses' cost of equipment, supplies, labor or administrative costs. The rules are designed to establish rules and procedures for the playing of instant lottery games; and (2) the rules will have a negligible impact, if any, on business because they are interpretive. They have been promulgated for the purpose of stating policy, procedure and practice and do not include requirements for forms, fees, appearances or other actions by business.

RCW 34.05.328 does not apply to this rule adoption. Said section does not apply to these proposed rules because

they are not proposed by one of the listed agencies. As the rules are merely interpretive, the lottery does not voluntarily apply this section.

Hearing Location: Washington State Lottery, 5936 Corson Avenue South, Suite 106, Seattle, WA 98108, on March 20, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Mary Jane Ferguson by March 11, 1998, (360) 753-1947.

Submit Written Comments to: Mary Jane Ferguson, Lottery, FAX (360) 586-6586, by March 19, 1998.

Date of Intended Adoption: March 20, 1998.

February 3, 1998  
 Mary Jane Ferguson  
 Rules Coordinator

PROPOSED

**NEW SECTION**

**WAC 315-36-010 What is Lucky 21 and how do I play?** (1) Lucky 21 is an on-line lottery game in which you purchase a computer-generated ticket and try to match your set of numbers to the winning set of numbers, chosen by the lottery. The game is called Lucky 21 because you have twenty-one sets of four numbers, and so twenty-one chances to win. The game is conducted in accordance with the rules for on-line games found in chapter 315-30 WAC and the general rules found in chapter 315-06 WAC.

(2) To play Lucky 21, you first pick one set of four numbers from "00" to "99" for a chance to win the grand prize of \$1,000 per week for the rest of your life. Or you can let the computer pick this set of numbers for you. If you have the computer pick for you, this is called a "quick pick" or "quick play."

(3) Next, the computer will generate twenty additional sets of four numbers from "00" to "99" for you. These sets will all be quick picks, that is, the computer selects them for you. You cannot pick any of these additional sets of numbers yourself. You will receive a computer printed ticket containing all twenty-one sets of numbers.

(4) If any one of the twenty-one sets on the ticket match two, three, or four of the numbers in the winning set of four numbers, in any order, you win a prize as specified in WAC 315-36-030.

(5) A Lucky 21 ticket will look like this:

<b>LUCKY 21</b>							
<u>FOR THE "WIN FOR LIFE" GRAND PRIZE</u>							
05 20 63 98							
<u>FOR THE \$50,000 PRIZE</u>							
12 18 25 99				22 25 36 39			
<u>FOR THE \$25,000 PRIZE</u>							
05 10 12 20				32 35 46 48			
25 67 76 80				33 34 46 69			
<u>FOR THE \$10,000 PRIZE</u>							
00 39 44 77				17 28 29 32			
04 13 30 34				36 39 80 81			
29 41 52 61				02 03 21 59			
<u>FOR THE \$5,000 PRIZE</u>							
10 20 21 31				23 53 60 81			
20 22 43 63				71 82 92 93			
53 63 70 90				70 82 98 99			
40 51 83 90				63 64 68 83			
SAT JAN 3 98				52			

**NEW SECTION**

**WAC 315-36-020 How much does a ticket cost?** One Lucky 21 ticket with twenty-one sets of four numbers costs \$2.

**NEW SECTION**

**WAC 315-36-030 What are the prizes for Lucky 21?** (1) The grand prize is \$1,000 per week for the rest of your life. This is the prize for matching all four of the numbers in the first set designated on the ticket.

(2) The prizes for matching all four numbers in any of the remaining twenty sets to the winning numbers are specified under headings on the ticket, and are as follows:

<u>NUMBER OF SETS</u>	<u>PRIZE BRACKET</u>
TWO	\$50,000
FOUR	\$25,000
SIX	\$10,000
EIGHT	\$5,000

(3) For matching three numbers (but not four or two) in one of your sets to three numbers in the winning set, you win fifty dollars. For matching two numbers (but not three or four) in one of your sets to two numbers in the winning set of numbers, you win a prize of five dollars.

**NEW SECTION**

**WAC 315-36-040 Can I win more than once on one ticket?** Yes. If your ticket has more than one set with two, three, or four numbers which match the winning numbers, you will receive the total of the prizes for each matching set.

**NEW SECTION**

**WAC 315-36-050 How is the winning set of numbers selected?** Lottery officials conduct the drawing for the winning set of numbers, as specified in the general rules for on-line game drawings, WAC 315-30-040. The director has the discretion to specify the means for randomly drawing the winning numbers. Each drawing shall determine, at random, four numbers from "00" through "99," which will be the winning set of numbers. No two of the four numbers in the winning set will be identical. Any drawn numbers will not be declared winning numbers until the drawing is certified by the lottery. The winning numbers shall be used to determine all Lucky 21 winners for that drawing. If a drawing is not certified, another drawing will be conducted to determine the four numbers, which will be the winning set of numbers. The drawing shall not be invalidated based on the liability of the lottery.

**NEW SECTION**

**WAC 315-36-060 How often is the winning set of numbers chosen?** The Lucky 21 drawing for the winning set of numbers is held at least once a week and may be held up to once a day, seven days a week, at the discretion of the director of the lottery. The director in addition has the discretion to change the drawing schedule or cancel the drawing if it falls on a holiday.

**NEW SECTION**

**WAC 315-36-070 Where can I buy or redeem Lucky 21 tickets?** You can buy or redeem Lucky 21 tickets only from a lottery retailer licensed by the director of the lottery to sell on-line, computer generated tickets. You can buy or redeem the tickets during no less than seventeen hours each day, according to a schedule determined by the director of the lottery, but each on-line retailer will sell and redeem tickets only during their normal business hours. In redeeming tickets, a retailer may only pay out prizes up to \$600. For prizes over \$600, you must obtain a lottery claim form as described in WAC 315-06-120, and submit your ticket to the lottery by mail or in person. Tickets will be validated and redeemed in accordance with the general rules for on-line games found in chapter 315-30 WAC. Federal income tax must be withheld from prize payments as required by law.

**NEW SECTION**

**WAC 315-36-080 What information is included on a Lucky 21 ticket and playslip?** The front of the ticket states the selection of numbers, amount wagered, drawing date, and validation and reference numbers. The playslip states an estimate of the probability of purchasing a winning ticket, player instructions, and player information.

**NEW SECTION**

**WAC 315-36-090 What are the odds of winning Lucky 21?** The odds of winning any prize are 1 in 7. The odds of winning specific prizes are as follows:

"Win for Life" type Grand Prize: 1:3,921,225  
 "\$50,000 Prize": 1:1,960,613

"\$25,000 Prize": 1: 980,306  
 "\$10,000 Prize": 1: 653,538  
 "\$5,000 Prize": 1: 490,153  
 Match three numbers  
 (but not two or four)  
 \$50 Prize: 1:486  
 Match two numbers  
 (but not three or four)  
 \$5 Prize: 1:7

**NEW SECTION**

**WAC 315-36-100 If more than one person per drawing wins the grand prize, does each person receive the entire prize of \$1,000 for life or is the prize split among the winners?** Each person wins the grand prize of \$1,000 for life.

**NEW SECTION**

**WAC 315-36-110 How is the "win for life" type grand prize paid?** (1) You must be a natural person (e.g., not a corporation) to claim the prize of \$1,000 per week for life. Prize payments will be made twice a year in the amount of \$26,000. The first payment will be upon validation of a winning ticket. Future payments will be made every six months thereafter. You are entitled to the \$26,000 payment even if you do not live to the end of that six-month period.

(2) If you are under eighteen at the time of claiming the grand prize, the semiannual payments of \$26,000 each will be made in accordance with RCW 67.70.220 for prizes over \$5,000.

(3) If a winner dies before payment of \$250,000 under this section, the winner's successor-in-interest will be entitled to receive a lump sum payment in the amount necessary to bring the amount paid as a prize under this section up to a total of \$250,000. Any successor-in-interest must provide the lottery with the necessary documentation and a court order directing payment of the final amount to the successor or successors entitled to payment. The determination of the sufficiency of the documentation shall lie within the discretion of the director of the lottery. Payment to the successor or successors shall be governed by all applicable laws, including WAC 315-06-120, 315-06-123, and 315-06-130.

(4) The winner's successor-in-interest must notify the lottery of the death of the winner. If the lottery makes a payment after the winner's death, the lottery shall require return of the payment, except, at the director's discretion, the payment may be deducted from any lump sum payment due to the winner's estate.

**NEW SECTION**

**WAC 315-36-120 How are prizes, other than the "win for life" type grand prize, paid?** Every Lucky 21 prize other than the "win for life" type grand prize will be paid in a single payment.

PROPOSED

NEW SECTION

**WAC 315-36-130 What happens to unclaimed Lucky 21 prizes?** When a player who holds a winning ticket does not claim his or her prize within one hundred eighty days of the drawing in which the prize was won, that prize is retained in the state lottery account for further use as prizes, as provided for in RCW 67.70.190.

NEW SECTION

**WAC 315-36-140 Definitions for Lucky 21.** (1) Number: Any play number from "00" through "99" inclusive.

(2) Set: One selection of four numbers.

(3) Play slip: A mark-sense game card used by players to select one set of four numbers for the "Win for Life" grand prize.

(4) Lucky 21 ticket: A computer-generated receipt showing payment for one play in a Lucky 21 game. Tickets shall be issued by an on-line terminal and shall list the twenty-one sets of four numbers each that belong to the ticket holder.

(5) Quick pick or quick play: A method for choosing a set of numbers by use of the random number generator within the on-line computer terminal.

(6) Play: Twenty-one sets of four numbers.

NEW SECTION

**WAC 315-36-150 Suspension or termination of Lucky 21.** At the discretion of the director, Lucky 21 may be suspended or terminated at any time, to be effective prior to the beginning of sales for any future drawing. The director may suspend or terminate sales only where no sales have been made for the drawing.

AMENDATORY SECTION (Amending Order 3, filed 10/15/82)

**WAC 315-02-030 Address of commission.** Unless specifically provided elsewhere in these rules, submission of materials or requests for notice or information of any kind, may be made by addressing correspondence to: Washington State Lottery Commission, P.O. Box ((9770)) 43000, Olympia, Washington 98504-3000.

AMENDATORY SECTION (Amending Order 3, filed 10/15/82)

**WAC 315-02-040 Commission activities exempt from Environmental Protection Act.** The commission has reviewed its authorized activities and has found them to be exempt pursuant to WAC ((197-10-040(2), 197-10-150 through 197-10-190 and the State Environmental Policy Act, chapter 43.21 RCW)) 197-11-800.

AMENDATORY SECTION (Amending Order 3, filed 10/15/82)

**WAC 315-02-060 Address of the office of the director.** Unless specifically provided elsewhere in these rules, submission of materials or requests for notice or information of any kind, may be made by addressing

correspondence to: Office of the Director, Washington State Lottery, P.O. Box ((9770)) 43000, Olympia, Washington 98504-3000.

AMENDATORY SECTION (Amending Order 3, filed 10/15/82)

**WAC 315-02-070 Office of the director activities exempt from Environmental Protection Act.** The director has reviewed his or her authorized activities and has found them to be exempt pursuant to WAC ((197-10-040(2), 197-10-150 through 197-10-190 and the State Environmental Policy Act, chapter 43.21 RCW)) 197-11-800.

AMENDATORY SECTION (Amending Order 83, filed 12/16/85)

**WAC 315-02-080 Filing of adopted rules.** The commission hereby authorizes each of the following to act as an agent of the commission for the purpose of signing Form ((CR-8)) CR-103 promulgated by the code reviser for the purpose of filing adopted rules:

- (1) Each member of the commission;
- (2) Director;
- (3) Deputy director.

AMENDATORY SECTION (Amending WSR 89-21-029, filed 10/10/89, effective 11/10/89)

**WAC 315-02-220 Ticket defined.** "Ticket" means a lottery ticket or share issued by the director for sale to the general public or for use in authorized ((media promotions)) promotional events and activities and authorized retailer incentive programs.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- |                |                  |
|----------------|------------------|
| WAC 315-02-170 | Lottery defined. |
| WAC 315-02-180 | Person defined.  |

AMENDATORY SECTION (Amending WSR 97-04-047, filed 1/31/97, effective 3/3/97)

**WAC 315-10-010 Instant games—Authorized—Director's authority.** It is the commission's intent to provide the director broad authority in carrying out the following duties:

(1) The commission hereby authorizes the director to select, operate, and contract relating to and for the operation of instant games meeting the criteria set forth in this chapter.

(2) The director shall establish final instant game specifications, including the determination of winning tickets, in executed working papers. The director shall keep executed working papers on file at the headquarters office location and make them available for public review during normal business hours.

(3) The director or designee shall inform commission members of instant game development.



**AMENDATORY SECTION** (Amending WSR 97-04-047, filed 1/31/97, effective 3/3/97)

**WAC 315-10-020 Definitions.** (1) Ticket. The ticket purchased for participation in an instant game and any ticket used in media promotions and retailer incentive programs authorized by the director for an instant game.

(2) Instant game. A game in which a ticket is purchased and upon removal of a latex covering on the front of the ticket, the ticket bearer determines his or her winnings, if any.

(3) Ticket bearer. The person who has signed the ticket or has possession of the unsigned ticket.

(4) Play symbols. The numbers or symbols appearing in the designated areas under the removable covering on the front of the ticket. Play symbols were formerly called play numbers. Both terms shall have the same meaning.

(5) Your(s). The ticket bearer's play area or areas (for example, "your hand(s)," "your card(s)," or "your roll(s)").

(6) Their(s). The opponent's play area or areas (for example, "their card(s)," or "their roll(s)").

(7) Validation number. The multi-digit number found on the ticket and on any ticket stub. There must be a validation number on the ticket or any stub.

~~((6))~~ (8) Working papers. The documents providing production and winning ticket specifications for each instant ticket game. Executed working papers (including amendments, if any) are signed and dated by the lottery director.

(9) Scratch game. Instant game as defined in subsection (1) of this section.

**NEW SECTION**

**WAC 315-10-023 What are the prizes available for instant games?** Prizes available are as set forth on the instant game ticket. Prizes may range from one dollar up to and including one million dollars. Prizes may also include Win for Life prizes. Win for Life prizes will be paid in accordance with WAC 315-06-120(14) and may include prizes exceeding one million dollars.

**NEW SECTION**

**WAC 315-10-024 What are the methods of selecting winning tickets?** (1) Methods for selecting winning tickets shall be as set forth on the instant game ticket and in the executed working papers on file at lottery headquarters in Olympia, Washington. Methods for selecting winning tickets include:

(a) Higher number. Your (the player's) number is greater than their number.

(b) Match one or more. Match your play symbols to the winning play symbol(s).

(c) Bonus play. Uncover a bonus symbol to win a bonus prize instantly.

(d) Match two or more consecutive. Match two or more consecutive "Game Cards" within a game to the "Draw Cards" to win the corresponding amount shown on the ticket.

(e) Match two or more. Match two or more "Game Cards" within a game to the "Draw Cards" to win the corresponding amount shown on the legend on the ticket.

(f) Three like cards. Get three like cards with one hand to win the corresponding amount shown on the ticket.

(g) Grand prize drawing. Uncover a bonus symbol that qualifies you to enter a grand prize drawing or submit one or more nonwinning tickets to enter a grand prize drawing.

(h) Match symbols. Uncover a specified number of identical play symbols on a play area.

(i) Add up "yours." Add up the play symbols designated as "yours" and the total is greater than or equal to the symbol or symbols designated as "theirs."

(j) Add up. Add up the play symbols and the amount is greater than or equal to the designated symbols on the ticket.

(k) Tic tac toe. Uncover three identical play symbols, in a row, column, or diagonal, on a 9 symbol grid on the play area.

(l) Sequence. Uncover the designated play symbols in the specified sequential order.

(m) Spellout. Uncover the play symbols to form the designated word or words.

(n) In between. Uncover the play symbol or symbols designated as "yours" with a value less than the play symbol or symbols designated as "their high card" and greater than the play symbol or symbols designated as "their low card."

(2) Each of the methods described in subsection (1) of this section may include a special variant such as "automatic win feature," "doubler," "wild card," or "free space" that provides added or alternative methods of winning.

**AMENDATORY SECTION** (Amending WSR 97-04-047, filed 1/31/97, effective 3/3/97)

**WAC 315-10-025 How much does it cost to purchase an instant game ticket?** The price of an instant game ticket shall not be less than \$1.00 and not more than ~~((5.00))~~ \$20.00, except for those tickets used in media promotions and retailer incentive programs authorized by the director.

**AMENDATORY SECTION** (Amending WSR 97-04-047, filed 1/31/97, effective 3/3/97)

**WAC 315-10-030 Instant games criteria.** (1) The total of all prizes available to be won in an instant game shall not be less than forty-five percent of the instant game's projected revenue.

(2) ~~((The instant game shall pay out both lower tier prizes and higher tier prizes. Lower tier prizes are of \$25.00 or less. Higher tier prizes are of more than \$25.00. The director shall determine the number of lower and higher tier prizes.~~

~~((3))~~ There is no required frequency of drawing or method of selection of a winner in an instant game.

~~((4))~~ (3) At the director's discretion, an instant game may include a grand prize drawing(s). The criteria for the grand prize drawing shall be as follows:

(a) Finalists for a grand prize drawing shall be selected in an elimination drawing(s) from redeemed tickets meeting the criteria stated ~~((in specific game rules as determined by))~~ on the ticket and in executed working papers on file at lottery headquarters or stated in lottery promotional materials, at the discretion of the director. Participation in the elimination drawing(s) shall be limited to such tickets which are actually received and validated by the director on or before a date to be announced by the director. The director may reserve the right to place any semi-finalist whose entry

was not entered in the elimination drawing(s) and who is subsequently determined to have been entitled to such entry into an elimination drawing of a subsequent instant game, and the determination of the director shall be final.

(b) The number of prizes and the amount of each prize in the grand prize drawing(s) shall be determined by the director to correspond with the size and length of the instant game and to comply with subsection (1) of this section.

(c) The dates and times as well as the procedures for conducting the elimination drawing and grand prize drawing shall be determined by the director.

PROPOSED

**WSR 98-04-079  
PROPOSED RULES  
INTERAGENCY COMMITTEE  
FOR OUTDOOR RECREATION**

[Filed February 4, 1998, 10:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-24-118.

Column #1 (a) Title of Rule (Subject Description)	Column #2 Purpose & Other Identifying Information (a). [Includes Summary & Support Reasons (c); Short Explanation, Purpose, Effects (f)]	Column #3 Statutory Authority for Adoption (b)
1. General, Definitions	A routine "housekeeping" deletion of the definition for the term "local agencies" which is no longer applicable. 286-04-010	RCW 43.99.080(2), 46.09.240(1)
2. General, manuals	Modify text to explain that IAC's Board adopts the program grant policies contained in agency manuals and that since not all agency manuals contain such policies, not all manuals are adopted by the Board. 286-04-060(2)	RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1), 77.12.720
3. Public records, Indexes	A routine "housekeeping" deletion of a duplicate reference ("Summaries of committee staff meetings) and a reference to files not publicly available ("Payroll and personnel records"). 286-06-065(3)	RCW 42.17.260
4. General Grant Assistance Rules, Application review	Clarify that some IAC policy statements occur in formats other than agency manuals. For example, such is the case in newer programs like the National Recreational Trails Funding Act and Riparian Habitat program for which traditional manuals may not be written. 286-13-030(2)	RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1), 77.12.720
5. General Grant Assistance Rules, Applications	Clarify that application deadlines for certain new programs, such as the National Recreational Trails Funding Act and Riparian Habitat grant programs, may be set at less than the typical four months before the funding meeting at which the project is first considered, and that the Director may establish other deadlines to accomplish new or revised statutory direction. 286-13-040(1)	RCW 43.98A.060(1)
6. General Grant Assistance Rules, Plans	Simplify the application process by establishing consistency among each of IAC's grant programs where plans are required by extending the maximum plan eligibility period by one year, to a total of six years. 286-13-040(2)	RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1), 77.12.720
7. General Grant Assistance Rules, Eligible Matching Resources	Clarify that where allowed, any agency or organization may match IAC grants with state monies, so long as those monies are not administered by IAC. 286-13-045(2)	RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1), 77.12.720
8. General Grant Assistance	A routine "housekeeping" update that clarifies the type of documentation that	RCW 43.98A.060(1), 43.98A.070(5),

**PROPOSED**

PROPOSED

Column #1 (a) Title of Rule (Subject Description)	Column #2 Purpose & Other Identifying Information (a). <i>[Includes Summary &amp; Support Reasons (c); Short Explanation, Purpose, Effects (j)]</i>	Column #3 Statutory Authority for Adoption (b)
Rules, Disbursement of funds	IAC currently requires before approval of a reimbursement request. 286-13-070	43.99.080(2), 46.09.240(1), 77.12.720
9. General Grant Assistance Rules, Retroactive and increased costs	Clarify that IAC's Director may approve certain noncapital project cost increases, just as the Director may now approve certain capital and acquisition cost increases. Also, clarify the current parcel-by-parcel basis for land acquisition cost increases. 286-13-085(3)(d)	RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1), 77.12.720
10. General Grant Assistance Rules, Nonconformance and repayment	Clarify that nonconformance in expenditure of grant monies can be related to any one of several factors (conflicts with statute, rules, manuals) and not necessarily all factors combined. 286-13-100	RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1), 77.12.720
11. Nonhighway Road and Off-Road Vehicle Funds, Definitions	A routine "housekeeping" update clarifying that more than two agency manuals provide further Nonhighway & Off-Road Vehicle Activities Program information. 286-26-020	RCW 46.09.240(1)
12. Nonhighway & Off-Road Vehicle Funds, Matching amounts and caps determined	A routine "housekeeping" modification clarifying that IAC may review and/or set fund request limits in all Nonhighway & Off-Road Vehicle Activities Programs; current WAC language implies that this is only done for acquisition and development projects. Also, eliminates an unnecessary requirement that IAC establish matching amounts and caps each year. If enacted, this would be done only when necessary to respond to changing fund availability scenarios. 286-26-110	RCW 46.09.240(1)
13. Washington Wildlife & Recreation Program, Planning requirements	Add text that clarifies that the planning requirements established in the 1997-1999 Capital Budget (Sec. 329, Ch. 235, Laws of 1997) for the Riparian Habitat Program (RHP) differ from existing Washington Wildlife & Recreation Program planning requirements. 286-27-040(7)	RCW 43.98A.060(1)
14. Washington Wildlife & Recreation Program, Deed of right	First, clarify that Washington Wildlife & Recreation Program (WWRP) funds may be used to acquire land for both recreation and habitat conservation purposes. Second, clarify that in some cases, land may be acquired with grants from WWRP for terms other than "forever." 286-27-055(1)	RCW 43.98A.060(1)
15. Washington Wildlife & Recreation Program;	First, change the title of IAC's <i>habitat conservation plan</i> to <i>habitat plan</i> to avoid confusion with another plan of the same name. Also, delete a cross	RCW 43.98A.060(1)

Column #1 (a) Title of Rule (Subject Description)	Column #2 Purpose & Other Identifying Information (a). <i>[Includes Summary &amp; Support Reasons (c); Short Explanation, Purpose, Effects (i)]</i>	Column #3 Statutory Authority for Adoption (b)
Development projects	reference that is no longer applicable. 286-27-065(2)(iii)	
16. Washington Wildlife & Recreation Program; Matching Amounts & Caps	Eliminates an unnecessary requirement that IAC establish matching amounts and caps each year. If enacted, this would be done only when necessary to respond to changing fund availability scenarios. 286-27-075	
17. Firearms Range, Matching amounts and caps determined	Add a section that allows IAC to set sponsor matching share requirements and fund request limits, as is the case with other IAC programs; this will allow IAC to respond to changing fund availability scenarios. (new 286-30-050)	RCW 77.12.720
18. Boating Facilities Program, Matching requirements & caps	Eliminates an unnecessary requirement that IAC establish matching amounts and caps each year. If enacted, this would be done only when necessary to respond to changing fund availability scenarios. 286-35-060	RCW 43.99.124

e:\grew\wp\wacs\98-3-101-102-103a.dot February 2, 1998

Name of Agency Personnel Responsible for Drafting: Greg Lovelady, 1111 Washington Street S.E., Olympia, WA 98504-0917, (360) 902-3008; Implementation and Enforcement: Laura Eckert Johnson, 1111 Washington Street S.E., Olympia, WA 98504-0917, (360) 902-3000.

Name of Proponent: Interagency Committee for Outdoor Recreation, public and governmental.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule changes are directed at the Interagency Committee for Outdoor Recreation's grant recipients, that is, local, state, and federal governmental agencies and nonprofit firearm and archery range organizations. If approved, the changes will enhance efficiency and compliance with existing laws and procedures. We do not believe that small businesses will be impacted in any way.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Interagency Committee for Outdoor Recreation is exempted under RCW 34.05.328 (5)(a)(i).

Hearing Location: Room 175, Natural Resources Building, 1111 Washington Street S.E., Olympia, WA, on March 12, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Greg Lovelady by March 3, 1998, TDD (360) 902-1996 (leave message), or (360) 902-3008.

Submit Written Comments to: Greg Lovelady, Rules Coordinator, Interagency Committee for Outdoor Recreation, P.O. Box 40917, Olympia, WA 98504-0917, FAX (360) 902-2026, by March 3, 1998.

Date of Intended Adoption: March 12, 1998.

February 2, 1998

Greg Lovelady  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

**WAC 286-04-010 Definitions.** For purposes of Title 286 WAC, unless the context clearly indicates otherwise:

"Acquisition" means the gaining of rights of public ownership by purchase, negotiation, or other means, of fee or less than fee interests in real property.

"Applicant" means any agency or organization that meets qualifying standards, including deadlines, for submission of an application soliciting a grant of funds from the committee. Generally, a federal, state, local, tribal or special purpose government is an applicant.

"Application" means the form, including project information form, approved by the director for use by applicants in soliciting project funds administered by the committee.

"Chair" means the chair of the committee. See RCW 43.99.110.

"Committee" means the interagency committee for outdoor recreation, (IAC) created by RCW 43.99.110.

"Development" means the construction of facilities to enhance outdoor recreation or habitat conservation resources.

"Director" means the director of the committee or that person's designee. See RCW 43.99.130.

~~("Local agencies" mean those public bodies eligible to apply for and receive funds from the committee as defined by RCW 43.99.020, except for purposes of chapter 286-26 WAC.)~~

"Nonhighway and off-road vehicle activities (NOVA) program" means the grants and planning program administered by the committee under chapter 46.09 RCW.

"Manual(s)" mean a compilation of state and federal policies, procedures, rules, forms, and instructions that have been assembled in manual form and which have been approved by the committee for dissemination to agencies and organizations that may wish to participate in the committee's grant program(s).

"Preliminary expense" means project costs incurred prior to committee approval, other than site preparation/development costs, necessary for the preparation of a development project.

"Project" means the undertaking which is, or may be, funded in whole or in part with funds administered by the committee.

"Project agreement" means a project agreement, supplemental agreement, intergovernmental agreement, or project contract between the committee and a sponsor.

"Sponsor" means an applicant who has been awarded a grant of funds, and has an executed project agreement.

**AMENDATORY SECTION** (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

**WAC 286-04-060 Manuals and waivers-guidance.**

(1) The committee shall adopt manuals that describe its general administrative policies for use by applicants, potential applicants, sponsors, and others. These manuals shall not have the force or effect of administrative code rules.

(2) Committee policies, including those in the manuals shall be considered and approved by the committee in an open public meeting. Notice of such considerations will be given by distribution of the agenda for the meeting, press releases, formal meeting notice in the Washington State Register, or other such means.

(3) Project applicants, sponsors, or other interested parties may petition the director for a waiver or waivers of those items dealing with general administrative matters and procedures within the manuals. Determinations on petitions for waivers made by the director are subject to review by the committee at the request of the petitioner.

(4) Petitions for waivers of subjects dealing with committee policy, and those petitions that in the judgment of the director require committee review, shall be referred to the committee for deliberation. Such waivers may be granted after consideration by the committee at an open public meeting.

**AMENDATORY SECTION** (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-06-065 Indexes.** (1) Through its public records officer, the committee shall maintain indexes for the records and files listed in subsection (2)(a) through (j) of this section. These indexes:

(a) Provide identifying information as to its files and records;

(b) Are available for public inspection and copying at its offices in the Natural Resources Building, Olympia, in the manner provided in this chapter for the inspection and copying of public records;

(c) Are updated at least once a year and revised at appropriate intervals;

(d) Are public records even if the records to which they refer may not, in all instances, be subject to disclosure.

(2) Indexes of the following records and files are available:

(a) Archived files;

(b) Equipment inventory;

(c) Summaries and memoranda of committee meetings;

(d) General committee policies and procedures;

(e) Active project files;

(f) Publications including grant program manuals, state-wide plans, technical assistance and special reports;

(g) Final adjudicative proceeding orders entered after June 30, 1990, as defined in RCW 34.05.010(1) that contain an analysis or decision of substantial importance to the committee in carrying out its duties (each listed alphabetically by subject with a phrase describing the issue or issues and relevant citations of law);

(h) Declaratory orders entered after June 10, 1990, that contain an analysis or decision of substantial importance to the committee in carrying out its duties (each listed alphabetically by case name with a phrase describing the issue or issues and relevant citations of law);

(i) Interpretive statements as defined in RCW 34.05.010(8) (each indexed by the committee program);

(j) Policy statements entered after June 30, 1990, as defined in RCW 34.05.010(14) (also see grant program manuals).

(3) The following general records and files are available by reference to topic, and generally arranged alphabetically or chronologically within such topic. Due to volume, costs and complexity, however, no master index is maintained.

(a) Administrative files;

(b) Comprehensive park-recreation plans;

(c) Summaries of committee staff meetings;

(d) Closed/inactive project files;

(e) General correspondence;

(f) ~~Summaries of committee staff meetings;~~

(g) Attorney general opinions;

(h) ~~Financial records;~~

(i) ~~Payroll and personnel records.~~

(4) Before June 30, 1990, the committee maintained no index of:

(a) Declaratory orders containing analysis or decisions of substantial importance to the committee in carrying out its duties;

(b) Interpretive statements as defined in RCW 34.05.010(8);

(c) Policy statements as defined in RCW 34.05.010(14).

**AMENDATORY SECTION** (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

**WAC 286-13-030 Application review.** (1) All applications for funding submitted to the committee will be referred to the director for review and recommendations. In reaching a recommendation, the director shall seek the

advice and counsel of the committee's staff and other recognized experts, including those gathered at technical review and evaluation meetings or from other parties with experience in the field.

(2) The committee shall inform all applicants of the specific project application process and methods of review, including current evaluation tests and instruments, by delineating these items in the manuals or other publicly available formats.

**AMENDATORY SECTION** (Amending WSR 97-17-004, filed 8/7/97, effective 9/7/97)

**WAC 286-13-040 Deadlines—Applications, plans, and matching resources.** (1) Applications. To allow time for review, ~~((at))~~ applications must be submitted at least four calendar months ~~((prior to))~~ before the funding meeting at which the applicant's project is first considered. Applications must be completed in final form and on file with the committee at least one calendar month before this meeting. Excepted are applications for the National Recreational Trails Funding Act, Riparian Habitat, and Youth Athletic Facilities Programs, and programs where the director specifically establishes another deadline to accomplish new or revised statutory direction.

(2) Plans. For purposes of project evaluation, all nonhighway and off-road vehicle program, park, recreation, or habitat plans required for participation in committee grant programs must be complete and on file with the committee at least three calendar months before the funding meeting at which the applicant's project is first considered. On the director's acceptance of the plan, the applicant shall be granted eligibility to submit applications for a period of up to ~~((five))~~ six years.

(3) Matches. To allow time for development of funding recommendations, written assurance must be provided whenever matching resources are to be considered as a part of an application. This assurance must be provided by the applicant to the committee at least one calendar month before the meeting at which the project is to be considered for funding.

(4) Project agreement. An applicant has three calendar months from the date of the committee's mailing of the project agreement to execute and return the agreement to the committee's office. After this period, the committee or director may reject any agreement not signed and returned and reallocate the grant funds to another project(s).

(5) Waivers. Compliance with these deadlines is required for eligibility unless a waiver is granted by the director. Such waivers are considered based on several factors which may include:

(a) When the applicant started the application/planning process;

(b) What progress has been made;

(c) When final plan adoption will occur;

(d) The cause of the delay (procedural or content related, etc.);

(e) Impact on the committee's evaluation process;

(f) Equity to other applicants; and

(g) Such other information as may be relevant.

**AMENDATORY SECTION** (Amending WSR 97-08-003, filed 3/20/97, effective 4/20/97)

**WAC 286-13-045 Eligible matching resources.** (1) Applicant resources used to match committee funds may include: Cash, local impact/mitigation fees, certain federal funds, the value of privately owned donated real estate, equipment, equipment use, materials, labor, or any combination thereof.

(2) ~~(Local)~~ Agencies and organizations may match with state funds so long as the state funds are not administered by the committee.

(3) Private donated real property, or the value of that property, must consist of real property (land and facilities) that would normally qualify for committee grant funding.

(4) State agency projects may be assisted by one hundred percent funding from committee sources *except* where prohibited by law.

(5) The eligibility of federal funds to be used as a match is governed by federal requirements and thus may vary with individual program policies.

**AMENDATORY SECTION** (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

**WAC 286-13-070 Disbursement of funds.** Except as otherwise provided herein, the director will authorize disbursement of project funds only on a reimbursable basis, after the sponsor has spent its own funds and has presented a billing showing satisfactory evidence of property rights acquired and/or compliance with partial or all provisions of the project agreement.

(1) Reimbursement method. Reimbursement must be requested on voucher forms authorized by the director and must include all documentation as detailed in the manual in effect at the time reimbursement is requested.

(2) Reimbursement level. The amount of reimbursement may never exceed the cash spent on the project.

(3) Partial payment. Partial reimbursements may be made during the course of a project on presentation of billings showing satisfactory evidence of partial acquisition or development.

(4) Exceptions.

(a) State agencies' Initiative 215 (Marine Recreation Land Act) appropriations. Prior to the 1995-1997 biennium (July 1, 1995,) state agencies were required to submit voucher forms with the supporting documentation specified in the manual in effect at the time of completion of project acquisition, relocation or development.

(b) Direct payment. Direct payment to escrow of the committee's share of the approved cost of real property may be made following committee approval of an acquisition project when the sponsor indicates a temporary lack of funds to purchase the property. Prior to release of the committee's share of escrow funds, the sponsor must provide the director with a copy of a binding sale agreement between the sponsor and the seller and evidence of deposit of the sponsor's share (if any) into an escrow account.

**AMENDATORY SECTION** (Amending WSR 97-08-003, filed 3/20/97, effective 4/20/97)

**WAC 286-13-085 Retroactive and increased costs.** See WAC 286-04-010 for definition of terms for the following section.

Under most conditions, eligible expenses may only be reimbursed for activities that occur within the period cited in the project agreement. This is known as the committee's prohibition on retroactivity. To avoid this prohibition, a waiver may be issued.

(1) Retroactive land acquisition costs.

The director may grant a waiver of retroactivity whenever an applicant asserts, in writing, that a condition exists which may jeopardize the project. When evidence warrants, the director may grant the applicant permission to proceed by issuing the written waiver. This waiver of retroactivity will not be construed as an approval of the proposed project. If the project is subsequently approved, however, the costs incurred will be eligible for assistance. If the project is to remain eligible for grant support from federal funds, the director shall not authorize a waiver of retroactivity to the applicant until the federal agency administering the federal funds has issued its own waiver of retroactivity as provided under its rules and regulations.

(2) Retroactive development costs. The only retroactive development costs eligible for reimbursement consideration are preliminary expenses (e.g., engineering costs).

However, solely in respect to WWRP projects on LEAP Capital Document 5, the director is authorized to grant a waiver of retroactivity which establishes eligibility for future reimbursement of all appropriate development costs. Such applicants' retroactivity requests must be in writing, and provide sufficient justification. Reimbursement of expenditures is subject to the provisions of WAC 286-13-070. This authority shall be effective until the execution of a project agreement or June 30, 1997, whichever occurs first.

(3) Cost increases.

(a) Cost increases for approved projects may be granted by the committee if financial resources are available.

(b) Each cost increase request will be considered on its merits.

(c) If an approved project recommended for federal funding is denied by the appropriate federal agency, the sponsor may request that the committee increase assistance by an equivalent amount; such requests shall be considered on their merits.

(d) The director may approve a sponsor's acquisition, development, and/or noncapital project cost increase request so long as the total request does not exceed ten percent of the project's approved initial cost. ~~((The director may also approve land acquisition cost increase requests so long as the total request for each parcel does not exceed ten percent of both the committee approved initial cost and the appraised and reviewed value of each parcel for which a cost increase is requested.))~~ The director's approval of an acquisition project cost increase is limited to a parcel-by-parcel appraised and reviewed value.



**AMENDATORY SECTION** (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

**WAC 286-13-100 Nonconformance and repayment.**

Any sponsor expenditure of committee grant moneys deemed by the committee or director to conflict with applicable statutes, rules and/or related manuals must be repaid, upon written request by the director, to the appropriate state account. Such repayment requests may be made in consideration of an applicable report from the state auditor's office.

**AMENDATORY SECTION** (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

**WAC 286-26-020 Definitions.** For purposes of this chapter, the following definitions shall apply:

"Management" means the action taken in exercising control over, regulating the use of, and operation and maintenance of ORV trails and ORV areas.

"Nonhighway road" (NHR) as provided in RCW 46.09.020.

"Nonhighway vehicle" as provided in RCW 46.09.020.

"NOVA" means the committee's nonhighway and off-road vehicle activities program described in chapter 46.09 RCW, and ~~((NHR and ORV))~~ related policy manuals for ((the)) planning, acquisition, development and management of recreation areas and trails.

"NOVA advisory committee" means the panel of NHR recreationists, organized ORV recreational groups, and agency representatives chosen to advise the director in the development of the state-wide NOVA plan, the development of a project priority rating system, the suitability and evaluation of NOVA projects submitted to the committee for funding, and other aspects of NOVA recreation as the need may arise, in accordance with chapter 46.09 RCW.

"Off-road vehicle" (ORV) as provided in RCW 46.09.020.

"ORV trail" as provided in RCW 46.09.020, and including, competition sites for two, three, or four-wheel ORVs, and four-wheeled vehicles over forty inches width which are equipped with four-wheel drive or other characteristics such as nonslip drive trains and high clearance. Such courses will be designed to include ORV trail or area characteristics such as sharp turns, jumps, soft tread material, dips, or other obstacles found in more natural settings. Race courses which are paved and designed primarily for other vehicles, such as go-karts and formula cars, are not eligible for NOVA funds.

"ORV use area" as provided in RCW 46.09.020.

**AMENDATORY SECTION** (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

**WAC 286-26-110 Matching amounts and caps determined.** ~~((Each year))~~ The committee will establish NOVA program sponsor matching share requirements and ((acquisition development)) fund request limits. ((This)) Any changes will normally be done at a committee meeting six months before program funding consideration.

**AMENDATORY SECTION** (Amending WSR 97-08-003, filed 3/20/97, effective 4/20/97)

**WAC 286-27-040 Planning requirements.** To be eligible for grant consideration under this chapter, applicants must complete a plan in accordance with WAC 286-13-040(2). At minimum the plan must include:

(1) A statement of the applicant's long-range goals and objectives;

(2) An inventory, or description of the planning area;

(3) An analysis of demand and need, that is, why actions are required;

(4) A description of how the planning process gave the public ample opportunity to be involved in development of the plan;

(5) A current capital improvement program of at least five years;

(6) Evidence that this plan has been approved by the applicant's governing entity most appropriate to the plan's scope. For example, a city or county-wide plan must be approved at the council or commission level. Plans with a different scope will be approved by department heads, district rangers, regional managers/supervisors, etc.;

(7) Excepted are riparian zone habitat protection projects under RCW 43.98A.040 (1)(d), where planning requirements in section 329(6), chapter 235, Laws of 1997, shall apply rather than those listed in subsections (1) through (6) of this section.

**AMENDATORY SECTION** (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

**WAC 286-27-055 Acquisition projects—Deed of right, conversions, leases and easements.** For acquisition projects, sponsors must execute an instrument or instruments which contain:

(1) For fee, less-than-fee, and easement acquisition projects:

(a) A legal description of the property acquired;

(b) A conveyance to the state of Washington of the right to use the described real property ~~((forever))~~ for habitat conservation and/or outdoor recreation purposes in perpetuity unless a term is specified in the project agreement; and

(c) A restriction on conversion of use of the land. That is, without prior approval of the committee, a facility acquired with money granted by the committee shall not be converted to a use other than that for which funds were originally approved. The committee shall only approve such a conversion under conditions which assure the substitution of other land of at least equal fair market value at the time of conversion, and of as nearly as feasible equivalent usefulness and location.

(2) For lease acquisition projects, a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The interest:

(a) Must be for at least fifty years unless precluded by state law;

(b) May not be revocable at will;

(c) Must have a value supported through standard appraisal techniques;

(d) Must be paid for in lump sum at initiation;

(e) May not be converted, during the lease period, to a use other than that for which funds were originally approved, without prior approval of the committee.

**AMENDATORY SECTION** (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

**WAC 286-27-065 Development projects—Conversion to other uses.** (1) Without prior approval of the committee, a facility developed with money granted by the committee, to state, county, municipality or native American tribal government sponsors, shall not be converted to a use other than that for which funds were originally approved.

(2) The committee shall only approve such a conversion under conditions which assure that:

(a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;

(b) A new development, in the spirit of WAC 286-13-080 ("...aid through the committee is intended to supplement the existing capacity of sponsor..."), will serve as a replacement which:

(i) Is of reasonably equivalent recreation utility and location;

(ii) Will be administered by the same political jurisdiction as the converted development;

(iii) Will satisfy need(s) identified in the sponsor's outdoor recreation or habitat (~~(conservation)~~) plan (see WAC 286-27-040 (~~and 286-27-050~~)); and

(iv) Includes only elements eligible under the committee's program from which funds were originally allocated.

**AMENDATORY SECTION** (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

**WAC 286-27-075 Matching amounts and caps determined.** Consistent with RCW 43.98A.060(4) and 43.98A.070(4), (~~each year~~) the committee will establish sponsor matching share requirements and acquisition-development fund request limits. (~~This~~) Any changes will normally be done at a committee meeting six months before program funding consideration.

**AMENDATORY SECTION** (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

**WAC 286-35-060 Matching requirements and caps determined.** (~~Each year~~) The committee will establish sponsor matching share requirements and acquisition-development fund request limits. (~~This~~) Any changes will normally be done at a committee meeting six months before project funding consideration.

#### **NEW SECTION**

**WAC 286-30-050 Matching requirements and caps determined.** The committee will establish sponsor matching share requirements and fund request limits. Any changes will normally be done at a committee meeting six months before project funding consideration.

**WSR 98-04-083**

**PROPOSED RULES**

**INSURANCE COMMISSIONER'S OFFICE**

[Filed February 4, 1998, 11:28 a.m.]

Original Notice.

Title of Rule: Life disclosure.

Purpose: Update, clarify, and improve the existing regulatory scheme.

Other Identifying Information: Insurance Commissioner Matter No. R 97-4.

Statutory Authority for Adoption: RCW 48.02.060, 48.030.010 [48.30.010].

Statute Being Implemented: RCW 48.23A.005, 48.30.040, 48.30.090, 48.30.180.

Summary: The existing regulation, WAC 284-23-200 to 284-23-270, was identified as a part of the commissioner's regulatory improvement process as a regulation that needed to be updated. Changes have been made in state law and in NAIC model regulations and publications that will be reflected in the regulation. The existing regulatory scheme will be stronger, clearer, and more streamlined.

Reasons Supporting Proposal: The rules should increase the ease and clarify the methods of compliance for life insurers while strengthening consumer protection.

Name of Agency Personnel Responsible for Drafting: Jon Hedegard, Lacey, Washington, (360) 407-0728; Implementation: Scott Henderson, Olympia, Washington, (360) 664-3783; and Enforcement: Ida Zodrow, Olympia, Washington, (360) 664-8137.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule will update existing disclosure requirements for life insurance. The regulation will bring the WACs into accord with recent changes in Washington state law and model laws and publications of the NAIC. The existing regulation was adopted over eighteen years ago, changes in circumstances have made the existing regulation less effective and efficient. Amending the regulation should make disclosure requirements more understandable and easier to comply with for life insurers while strengthening consumer protection.

Proposal Changes the Following Existing Rules: The proposed rules amend several existing rules and repeals two existing rules. The regulatory scheme for life insurance disclosure is updated and reorganized to improve clarity and effectiveness. Subsections are moved within a WAC or moved to a different WAC to increase continuity. Amended WAC sections are WAC 284-23-210, 284-23-220, 284-23-230, 284-23-235, 284-23-240, and 284-23-250. WAC 284-23-260 and 284-23-270 will be repealed.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

**Introduction:** This report analyzes a proposal to modify rules related to life insurance disclosure. The changes are proposed in an effort to make the rules more current, effective and efficient. This evaluation is completed

to demonstrate the proposed changes improve the rules without imposing significant costs on insurers or insureds.

**Background:** In 1976, the National Association of Insurance Commissioners (NAIC) developed a model regulation on life disclosure illustrations. These model rules were adopted as rules by the insurance commissioner and placed in chapter 284-23 WAC in 1979. These rules require, in part, that insurers selling life insurance policies deliver a buyer's guide containing language specified in WAC 284-23-270. It also requires insurers to deliver a cost disclosure policy summary containing specified cost and benefit information to buyers.

The purpose of the 1979 rules was to improve the buyer's understanding of the benefits and costs of the policy purchased. Since 1979, new life insurance illustration laws (chapter 48.23A RCW) have been developed and passed in the state of Washington. The requirements of chapter 48.23A RCW have a more comprehensive scope than previously adopted life disclosure rules. When the new life illustration laws apply to a sale, the requirements of WAC 284-23-270 are outdated and ineffective.

The proposed amendments reflect changes in the statute and the availability of the updated buyer's guide. The amendments are intended to make the rules more current, effective and efficient.

**Federal Law and Other State Law:** This rule does not conflict with any other state or federal law.

**Industry Codes:** This rule shall apply to any solicitation, negotiation or procurement of life insurance occurring within the state of Washington. This would affect life insurance companies (industry code #6311).

**Probable Costs:** The proposed rules do not impose any direct costs on the regulated industry. The proposed amendments make the rules more current and improve the efficiency and clarity of regulation concerning life disclosure illustration regulation. The rules do not restrict current provisions and do not impose new filing requirements. The commissioner recognizes the potential for costs associated with the time required to read and comprehend the amended rules. These probable costs would be insignificant relative to the benefits associated with the proposed rules.

**Probable Benefits:** The proposed amendments make the rules more current by eliminating outdated versions of the buyer's guides and allowing the use of current versions of the buyer's guide. The rules also increase the flexibility of the regulation by allowing substitution of a compliant life illustration for a cost disclosure policy summary. The amendments also improve the efficiency of the rules requiring a cost disclosure policy summary that only illustrates the guaranteed elements of the policy. By illustrating guarantees only, the policy summary is not an "illustration" pursuant to chapter 48.23A RCW. Because the current statute requires a company to provide a basic life illustration at the point of sale that discloses both guaranteed and nonguaranteed elements, a policy summary would not be needed. The proposed changes eliminate the requirements that company representatives provide a policy summary when a basic illustration (which includes sufficient information) has already been provided. Insurers and agents are only required to provide the policy summary to insureds for policies sold without the use of a basic life illustration.

**Small Business Impact:** The proposed rules do not impose a disproportionately higher economic burden on small businesses within the four-digit classification. There are no new filing requirements associated with the proposed rules. The rules are being amended to permit more flexibility by allowing insurers to deliver current buyer's guides to buyers and allows them also to substitute compliant life illustration for cost disclosure policy summaries. Small businesses will not be required to change their business practices to comply with the proposed rules.

**Mitigation:** Mitigation to reduce the economic impact of the proposed rules on small businesses is not necessary because there are no cost impacts on small businesses. The proposed amendments could be considered a form of mitigation because they provide potentially more benefits to both insurers and buyers, without imposing costs on the regulated industry.

**Industry Involvement:** Businesses that will be affected by the proposed rules were invited to provide input to the commissioner's staff throughout the rule-writing process. A Preproposal Statement of Inquiry was filed for the rule on October 1, 1997.

**Conclusion:** The proposed amendments increase the potential benefits of current rules without increasing the costs of compliance. The proposed rules also clarify life illustration rules. These rules do not impose any direct costs on the regulated industry. The proposed rules benefit insurers selling life insurance policies as well as purchasers of these policies. Because the rules increase potential benefits without imposing any direct costs, it is reasonable to conclude that the probable benefits of this proposed rule making are greater than probable costs.

A copy of the statement may be obtained by writing to Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0256, Internet e-mail KacyB@oic.wa.gov, phone (360) 407-0729, or FAX (360) 407-0351.

RCW 34.05.328 applies to this rule adoption. The changes in this regulation alter the disclosure requirements for life insurance, noncompliance is an unfair method of competition and an unfair act or practice.

Hearing Location: Conference Room Downstairs, RoweSix, Building 4, 4224 6th Avenue S.E., Lacey, WA, on March 10, 1998, at 9:00.

Assistance for Persons with Disabilities: Contact Steve Carlsberg by January 23, 1998, TDD (360) 664-3154.

Submit Written Comments to: Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0256, Internet e-mail KacyB@oic.wa.gov, FAX (360) 407-0351, by March 10, 1998.

Date of Intended Adoption: March 17, 1998.

February 4, 1998

Greg J. Scully

Chief Deputy Commissioner

**((SOLICITATION REGULATION))**  
**LIFE INSURANCE DISCLOSURE**

AMENDATORY SECTION (Amending Order R 79-2, filed 6/25/79, effective 1/1/80)

**WAC 284-23-200 Purpose.** (1) The purpose of this regulation is to require insurers to deliver to purchasers of life insurance, information which will improve the buyer's ability to select the most appropriate plan of life insurance for ~~((his))~~ the buyer's needs, improve the buyer's understanding of the basic features of the policy which has been purchased or which is under consideration and improve the ability of the buyer to evaluate the relative costs of similar plans of life insurance.

(2) This regulation does not prohibit the use of additional material which is not in violation of this regulation or any other Washington statute or regulation.

AMENDATORY SECTION (Amending Order R 79-2, filed 6/25/79, effective 1/1/80)

**WAC 284-23-210 Scope.** (1) Except ~~((as hereafter exempted))~~ for the exemptions specified in subsection (2) of this section, this regulation shall apply to any solicitation, negotiation or procurement of life insurance occurring within this state. This regulation shall apply to any issuer of life insurance contracts including fraternal ~~((mutual life insurers))~~ benefit societies.

(2) Unless ~~((otherwise))~~ specifically included, this regulation shall not apply to:

- (a) Annuities.
- (b) Credit life insurance.
- (c) Group life insurance whose cost is borne in whole or in part by the individual insured's employer or by an association of which the individual insured is a member.
- (d) Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA).
- (e) Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

AMENDATORY SECTION (Amending Order R 79-2, filed 6/25/79, effective 1/1/80)

AMENDATORY SECTION (Amending Order R 79-2, filed 6/25/79, effective 1/1/80)

**WAC 284-23-220 Definitions.** For the purposes of this regulation, the following definitions shall apply:

(1) ~~(("Buyer's guide." A buyer's guide is a document which contains, and is limited to, the language contained in WAC 284-23-270 or language approved by the commissioner.~~

(2) ~~(("Cash dividend." A cash dividend is the current illustrated dividend which can be applied toward payment of the gross premium.~~

(3) ~~(("Equivalent level annual dividend." The equivalent level annual dividend is calculated by applying the following steps:~~

~~((a) Accumulate the annual cash dividends at five percent interest compounded annually to the end of the tenth and twentieth policy years.~~

~~((b) Divide each accumulation of step (a))~~ "Buyer's Guide" is a document that contains, and is limited to, the current buyer's guide, which has been recommended for use by the National Association of Insurance Commissioners. A

company must use the current Buyer's Guide no later than six months after approval by the National Association of Insurance Commissioners.

(2) Cost comparison indexes:

(a) "Surrender cost comparison index—Guaranteed basis" is calculated by applying the following steps:

(i) Step one: Determine the guaranteed cash surrender value, if any, available at the end of the tenth and twentieth policy years.

(ii) Step two: Divide the result of step one by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the values in step ~~((a))~~ one over the respective periods stipulated in step ~~((a))~~ one. If the period is ten years, the factor is 13.207 and if the period is twenty years, the factor is 34.719.

~~((c) Divide the results of step (b) by the number of thousands of the equivalent level death benefit to arrive at the equivalent level annual dividend.~~

~~((4) "Equivalent level death benefit." The equivalent level death benefit of a policy or term life insurance rider is an amount calculated as follows:~~

~~((a) Accumulate the guaranteed amount payable upon death, regardless of the cause of death, at the beginning of each policy year for ten and twenty years at five percent interest compounded annually to the end of the tenth and twentieth policy years respectively.~~

~~((b) Divide each accumulation of step (a) by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in step (a) over the respective periods stipulated in step (a). If the period is ten years, the factor is 13.207 and if the period is twenty years, the factor is 34.719.~~

~~((5) "Generic name." Generic name means))~~ (iii) Step three: Determine the equivalent guaranteed level premium by accumulating each guaranteed annual premium payable for the basic policy or rider at five percent interest compounded annually to the end of the period stipulated in step one and dividing the result by the respective factors stated in step two. (This amount is the guaranteed annual premium payable for a level premium plan.)

(iv) Step four: Subtract the result of step two from step three.

(v) Step five: Divide the result of step four by the number of thousands of the equivalent guaranteed level death benefit, using the company's guaranteed rate schedule to determine the amount payable upon death for purposes of subsection (3) of this section, to arrive at the "surrender cost comparison index—Guaranteed basis."

(b) "Net payment cost comparison index—Guaranteed basis" is calculated in the same manner as the comparable "surrender cost comparison index—Guaranteed basis" except that the cash surrender value is set at zero.

(3) "Equivalent guaranteed level death benefit" of a policy or term life insurance rider is an amount calculated as follows:

(a) Step six: Accumulate the amount payable upon death, regardless of the cause of death, at the beginning of each policy year for ten and twenty years at five percent interest compounded annually to the end of the tenth and twentieth policy years respectively.

PROPOSED

(b) Step seven: Divide each accumulation of step six by an interest factor that converts the accumulation into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in step six over the respective periods stipulated in step six. If the period is ten years, the factor is 13.207 and if the period is twenty years, the factor is 34.719.

(4) "Generic name" is a short title ((which)) that is descriptive of the premium and benefit patterns of a policy or a rider.

~~((6) "Life insurance surrender cost index." The life insurance surrender cost index is calculated by applying the following steps:~~

~~(a) Determine the guaranteed cash surrender value, if any, available at the end of the tenth and twentieth policy years.~~

~~(b) For participating policies, add the terminal dividend payable upon surrender, if any, to the accumulation of the annual cash dividends at five percent interest compounded annually to the end of the period selected and add this sum to the amount determined in step (a).~~

~~(c) Divide the result of step (b) (step a. for guaranteed cost policies) by an interest factor that converts it into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in step (b) (step a. for guaranteed cost policies) over the respective periods stipulated in step (a). If the period is ten years, the factor is 13.207 and if the period is twenty years, the factor is 34.719.~~

~~(d) Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider at five percent interest compounded annually to the end of the period stipulated in step (a) and dividing the result by the respective factors stated in step (c). (This amount is the annual premium payable for a level premium plan.)~~

~~(e) Subtract the result of step (c) from step (d).~~

~~(f) Divide the result of step (e) by the number of thousands of the equivalent level death benefit to arrive at the life insurance surrender cost index.~~

~~(7) "Life insurance net payment cost index." The life insurance net payment cost index is calculated in the same manner as the comparable life insurance cost index except that the cash surrender value and any terminal dividend are set at zero.~~

~~(8) "Policy summary." For the purposes of this regulation, policy summary means)) (5) "Policy data" is a display or schedule of guaranteed numerical values for each policy year or a series of designated policy years of the following information: Premiums; death benefits; cash surrender values and endowment benefits.~~

(6) "Policy summary" is a written statement describing the elements of the policy including but not limited to:

(a) A prominently placed title as follows: Statement of policy cost and benefit information.

(b) The name and address of the insurance agent, or, if no agent is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the policy summary.

(c) The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.

(d) The generic name of the basic policy and each rider.

(e) The following amounts, where applicable, for the first five policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including, but not necessarily limited to, the years for which life insurance cost indexes are displayed and at least one age from sixty through sixty-five or maturity whichever is earlier:

(i) The guaranteed annual premium for the basic policy.

(ii) The guaranteed annual premium for each optional rider.

(iii) The guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide, or other specifically enumerated exclusions, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately.

(iv) ~~((Total))~~ The guaranteed total cash surrender values at the end of the year with values shown separately for the basic policy and each rider.

~~(v) ((Cash dividends payable at the end of the year with values shown separately for the basic policy and each rider. (Dividends need not be displayed beyond the twentieth policy year.)~~

~~(vi))~~ Any guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values above.

(f) The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. ~~((f))~~ If the policy loan interest rate is ((variable)) adjustable, the policy summary shall ((include the maximum annual percentage rate.)) also indicate that the annual percentage rate will be determined by the company in accordance with the provisions of the policy and the applicable law.

(g) ~~((Life insurance surrender cost and life insurance net payment))~~ Cost comparison indexes for ten and twenty years but in no case beyond the premium paying period. Separate indexes are displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits nor basic policies or optional riders covering more than one life.

~~((The equivalent level annual dividend, in the case of participating policies and participating optional term life insurance riders, under the same circumstances and for the same durations at which life insurance cost indexes are displayed.~~

~~(i) A policy summary which includes dividends shall also include a statement that dividends are based on the company's current dividend scale and are not guaranteed in addition to a statement in close proximity to the equivalent level annual dividend as follows: An explanation of the intended use of the equivalent level annual dividend is included in the life insurance buyer's guide.~~

~~((j))~~ A statement in close proximity to the life insurance cost indexes as follows: An explanation of the intended use of these indexes is provided in the ((life insurance)) Buyer's Guide.

~~((k))~~ (i) The date on which the policy summary is prepared.

PROPOSED

The policy summary must consist of a separate document. All information required to be disclosed must be set out in such a manner as to not minimize or render any portion (~~thereof~~) obscure. Any amounts which remain level for two or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in item (e) of this section shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.

AMENDATORY SECTION (Amending Order R 79-2, filed 6/25/79, effective 1/1/80)

WAC 284-23-230 (~~Disclosure requirements~~) Duties of insurers. (1) The insurer shall provide a Buyer's Guide and a policy summary to any prospective purchaser upon request.

(2) The insurer shall provide, to all prospective purchasers, a Buyer's Guide and a policy summary prior to accepting the applicant's initial application, premium, or premium deposit, (~~unless the policy for which application is made contains an unconditional refund provision of at least ten days or unless the policy summary contains such an unconditional refund offer, in which event the buyer's guide and policy summary must be delivered with the policy or prior to delivery of the policy. (RCW 48.23.380, requiring a 10-day free examination of policy, must be complied with.)~~

~~(2) The insurer shall provide a buyer's guide and a policy summary to any prospective purchaser upon request.~~

~~(3) In the case of policies whose equivalent level death benefit does not exceed \$5,000, the requirement for providing a policy summary will be satisfied by delivery of a written statement containing the information described in WAC 284-23-220 (8)(b), (e), (d), (e)(i), (ii) and (iii), (f), (g), (j) and (k)) provided, however, that:~~

(a) If an illustration, subject to the requirements of chapter 48.23A RCW (Life insurance policy illustrations), is used in the sale of a policy, a policy summary does not have to be provided. Only guarantees may be shown in the policy summary for policies written with an application date on or after the effective date of chapter 48.23A RCW (Life insurance policy illustrations).

(b) If the policy for which application is made or its policy summary contains an unconditional refund provision of at least ten days, the policy summary must be delivered with the policy or prior to delivery of the policy.

(c) If the equivalent guaranteed level death benefit of the policy for which application is made does not exceed five thousand dollars, the requirement for providing a policy summary will be satisfied by delivery of a written statement containing the information described in WAC 284-23-220 (6)(b), (c), (d), (e)(i), (ii), (iii), (iv), (f), (g), (h), and (i).

## NEW SECTION

WAC 284-23-235 Special plans and solicitation by direct response. (1) In the case of a solicitation by direct response methods, the insurer shall provide a *Buyer's Guide* and a policy summary prior to accepting the applicant's application: *Provided, however,* That if the policy for which application is made contains an unconditional refund provision of at least ten days, the *Buyer's Guide* and a policy summary may be delivered with the policy.

(2) Special plans. This subsection modifies the application of this rule as indicated for certain special plans of life insurance:

(a) "Flexible premium and benefit policies." For policies sold without illustrations which:

(i) Permit the policyowner to vary the amount and timing of premium payments, or the amount payable on death, all indexes and other data shall be displayed assuming specific schedules of anticipated premiums and death benefits at issue.

(ii) Provide for a cash value that is based on separately identified interest credits and mortality and expense charges applied to the policy, then the policy summary shall indicate when the policy will expire based on the interest rates and mortality and other charges guaranteed in the policy and the anticipated or assumed annual premiums shown in the policy summary.

(b) "Multitrack policies." For policies which allow a policyowner to change or convert the policy from one plan or amount to another, the policy summary:

(i) Shall display all indexes and other data assuming that the option is not exercised; and

(ii) May display all indexes and other data using a stated assumption about the exercise of the option.

(c) "Policies with any rate subject to continued insurability." For policies which allow a policyowner a reduced premium rate if the insured periodically submits evidence of continued insurability, the policy summary:

(i) Shall display cost indexes and other data assuming that the insured always qualifies for the lowest premium;

(ii) Shall display cost indexes and other data assuming that the insured fails to qualify for the lowest premium and the company always charges the highest premiums allowable; and

(iii) Shall indicate the conditions that must be fulfilled for an insured to qualify periodically for the reduced rate.

AMENDATORY SECTION (Amending Order R 79-2, filed 6/25/79, effective 1/1/80)

WAC 284-23-240 General rules. (1) Each insurer shall maintain at its home office or principal office, a complete file containing one copy of each document authorized by the insurer for use pursuant to this regulation. Such file shall contain one copy of each authorized form for a period of three years following the date of its last authorized use unless otherwise provided by this regulation.

(2) An agent shall inform the prospective purchaser, prior to commencing (~~a life insurance sales~~) any presentation that may lead to the sale of life insurance, that (~~he~~) the agent is acting as a life insurance agent and inform the prospective purchaser of the full name of the insurance company which (~~he~~) the agent is representing to the buyer.

In sales situations in which an agent is not involved, the insurer shall identify its full name.

(3) Terms such as financial planner, investment advisor, financial consultant or financial ~~((counseling))~~ counselor shall not be used by an agent unless ~~((he))~~ the agent is generally engaged in an advisory business and receives a material part of his or her compensation from that source unrelated to the sale of insurance.

~~(4) ((Any reference to policy dividends must include a statement that dividends are not guaranteed.)) There shall be no reference to a dividend or nonguaranteed element.~~

~~(5) ((A system or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of two or more life insurance policies. Such a system may be used for the purpose of demonstrating the cash flow pattern of a policy if such presentation is accompanied by a statement disclosing that the presentation does not recognize that, because of interest, a dollar in the future has less value than a dollar today.~~

~~(6) A presentation of benefits shall not display guaranteed and nonguaranteed benefits as a single sum unless they are shown separately in close proximity thereto.~~

~~(7-A) Any statement regarding the use of the life insurance cost comparison indexes shall include an explanation to the effect that the indexes are useful only for the comparison of the relative costs of two or more similar policies.~~

~~((8) A life insurance cost index which reflects dividends or an equivalent level annual dividend shall be accompanied by a statement that it is based on the company's current dividend scale and is not guaranteed.~~

~~(9) For the purposes of this regulation, the annual premium for a basic policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.))~~

AMENDATORY SECTION (Amending Order R 79-2, filed 6/25/79, effective 1/1/80)

**WAC 284-23-250 Failure to comply.** Failure of an insurer or an agent to provide or deliver a Buyer's Guide, ~~((or))~~ a policy summary, or policy data as provided ~~((in))~~ under WAC 284-23-230 and 284-23-235 shall constitute an unfair method of competition and an unfair act or practice, pursuant to RCW 48.30.010.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 284-23-260 Effective date.
- WAC 284-23-270 Life insurance buyer's guide, form to be used.

**WSR 98-04-088**  
**PROPOSED RULES**  
**STATE BOARD OF EDUCATION**  
 [Filed February 4, 1998, 11:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-01-099.

Title of Rule: WAC 180-16-002 Authority and 180-16-180 Vocational technical institutes, state support of.

Purpose: To make technical corrections to WAC 180-16-010 and repeal WAC 180-16-180.

Statutory Authority for Adoption: RCW 28A.150.220(4).

Summary: Amendments to WAC 180-16-010 change incorrect subsection reference and update terminology. Repeal of WAC 180-16-180 will remove an outdated rule.

Reasons Supporting Proposal: See above.

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.

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

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

Proposal does not change existing rules.

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: Fife School District, 2802 [5802] 20th Street East, Tacoma, WA 98424-2000, on March 18, 1998, at 10 a.m.

Assistance for Persons with Disabilities: Contact Patty Martin by March 4, 1998, 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 March 16, 1998.

Date of Intended Adoption: March 19, 1998.

February 4, 1998

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 98-01-031, filed 12/8/97, effective 1/8/98)

**WAC 180-16-002 Authority.** The authority for this chapter is RCW 28A.150.220(4) which ~~((authorizes))~~ requires the state board of education to adopt rules that implement and ensure compliance with the basic program of education requirements of RCW 28A.150.250, 28A.150.260, and 28A.150.220 and such related basic program of education requirements as may be established by the state board of education.

REPEALER

The following section of the Washington Administrative Code is repealed:

- WAC 180-16-180 Vocational-technical institutes, state support of.

PROPOSED

**WSR 98-04-089**  
**PROPOSED RULES**  
**STATE BOARD OF EDUCATION**

[Filed February 4, 1998, 11:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-24-108.

Title of Rule: WAC 180-79A-220 Teacher and principal exchange permits.

Purpose: The amendment to this rule would make it possible for educational staff associates to obtain exchange permits in addition to teachers and principals.

Statutory Authority for Adoption: RCW 28A.410.010.

Summary: See Purpose above.

Reasons Supporting Proposal: Occasionally a school counselor or school psychologist applies for participation in an educator exchange program.

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 above.

Proposal Changes the Following Existing Rules: See above.

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: Fife School District, 5802 20th Street East, Tacoma, WA 98424-2000, on March 18, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patty Martin by March 5, 1998, 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 February 20, 1998.

Date of Intended Adoption: March 19, 1998.

February 4, 1998

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 97-04-088, filed 2/5/97, effective 3/8/97)

**WAC 180-79A-220 Teacher ~~((and))~~<sub>1</sub> principal, and educational staff associate exchange permits.** Teacher ~~((and))~~<sub>1</sub> principal, and educational staff associate exchange permits may be issued by the superintendent of public instruction to an individual admitted to the United States for the purpose of serving as an exchange teacher ~~((or))~~<sub>1</sub> principal, or educational staff associate. Such teacher ~~((or))~~<sub>1</sub> principal, or educational staff associate exchange permits shall be valid for one year and may be renewed once.

PROPOSED



**WSR 98-04-076**  
**EXPEDITED ADOPTION**  
**DEPARTMENT OF AGRICULTURE**

[Filed February 4, 1997, 10:05 a.m.]

**Title of Rule:** Chapter 16-167 WAC, Intrastate commerce in foods, this rule adopts the federal regulations covering food additives, colors, labeling, food standards, good manufacturing practices, pesticide tolerances and compliance policy guidelines.

**Purpose:** To adopt the federal regulations covering food in interstate commerce as state rules for uniformity. This will ensure that food produced and processed in Washington state meets the United States food safety and labeling standards. This rule will update the 1995 regulations adopted previously by adopting the newest 1997 regulations.

**Statutory Authority for Adoption:** RCW 69.04.392, 69.04.394, 69.04.396, 69.04.398, and 69.07.020.

**Statute Being Implemented:** Intrastate commerce in food, drugs and cosmetics, chapter 69.04 RCW.

**Summary:** Adopts latest published federal regulations covering food additives, colors, food standards, current good manufacturing practices, food handling, pesticide tolerances and FDA compliance policy guidelines. This will ensure that Washington state standards are consistent with the federal requirements, help protect consumers from unsafe food, and ensure the flow in interstate commerce.

**Reasons Supporting Proposal:** Uniformity with federal regulations for food safety and to facilitate the sale and movement of goods in interstate/international commerce.

**Name of Agency Personnel Responsible for Drafting and Implementation:** Verne E. Hedlund, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1860; and **Enforcement:** Michael Donovan, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1883.

**Name of Proponent:** Washington State Department of Agriculture, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** In accordance with the stated purpose of RCW 69.04.398 which is for uniformity with federal laws and regulations this rule adopts the federal regulations that govern the production, processing and sale of foods in interstate commerce as a state rule. These regulations cover among other things, food additives, colors, labeling, current good manufacturing practices, standards of identity, testing requirements, thermal processing of low acid food, acidified food processing, infant formulas, seafood HACCP, dairy product standards, food enrichment, pesticide tolerances in food and animal food and compliance policy guidelines.

The purpose of adopting these federal regulations is uniformity, food safety and to facilitate the flow of Washington products in interstate/international commerce.

The anticipated effects are that applying the same requirements will help ensure safety of food products, and to ensure that the foods produced and processed in Washington state will be in compliance with the national standards and requirements. Again this will facilitate their acceptance and movement in interstate and international commerce.

**Proposal Changes the Following Existing Rules:** This rule change updates the adoption of the federal regulation to the current 1997 regulations. Changes since 1995 include

new EPA pesticide tolerances for human and animal food, the addition of current good manufacturing practices for dietary supplements, labeling for fluid milk products i.e., low fat, skimmed and nonfat has been changed to reflect the requirements under the Nutritional Labeling and Education Act (effective January 1, 1998), the compliance policy guidelines have been reviewed and updated by FDA since they were last adopted. 21 CFR Part 103 Quality Standards for Food With No Identity Standards has been removed.

**NOTICE**

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Verne E. Hedlund, Washington State Department of Agriculture, 1111 Washington Street, P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY April 4, 1998.

February 4, 1998  
 Candace A. Jacobs, DVM  
 Assistant Director

**AMENDATORY SECTION** (Amending Order 6012, filed 12/26/96, effective 1/26/97)

**WAC 16-167-010 Purpose and authority.** (1) Consistent with the concept of uniformity where possible with the federal regulations adopted under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 301 et seq. the following federal regulations are specifically made applicable to all persons subject to chapters 69.04 and 69.07 RCW by virtue of RCW 69.04.392, 69.04.394, 69.04.396 and 69.04.398. Although those regulations are automatically applicable to all persons subject to chapters 69.04 and 69.07 RCW, the department is nevertheless adopting as its own rules the following existing regulations of the federal government published in the Code of Federal Regulations revised as of April 1, ((1996)) 1997.

(2) The purpose of this rule is to adopt the following portion of the federal regulations promulgated under Title 21 CFR, Title 40 CFR and FDA Compliance Policy Guidelines as Washington standards for food safety to ensure uniformity with United States standards and to protect the consuming public from possible harm due to the purchase or consumption of adulterated or misbranded food.

(3) These rules are promulgated under authority of RCW 69.04.392, 69.04.394, 69.04.396, 69.04.398 and 69.07.020.

**AMENDATORY SECTION** (Amending Order 6012, filed 12/26/96, effective 1/26/97)

**WAC 16-167-020 Pesticide chemicals.** The following federal regulations are adopted as Washington tolerances for pesticide chemicals: 40 CFR Revised as of July 1, ((1995)) 1997.

(1) Parts 180 - Tolerances and Exemptions from Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities.

(a) Subpart A - Definitions and Interpretative Regulations.

(b) Subpart C - Specific Tolerances.

(2) Part 185 - Tolerances for Pesticides in Food.

(3) Part 186 - Tolerances for Pesticides in Animal Feeds.

AMENDATORY SECTION (Amending Order 6012, filed 12/26/96, effective 1/26/97)

**WAC 16-167-030 Food additives.** The following federal regulations prescribing the conditions under which such food additives may safely be used are adopted as Washington food additive regulations. 21 CFR Chapter 1 Revised as of April 1, ((1996)) 1997.

(1) Part 170 - Food Additives.

(2) Part 172 - Food Additives Permitted for Direct Addition to Food for Human Consumption.

(3) Part 173 - Secondary Direct Food Additives Permitted in Food for Human Consumption.

(4) Part 174 - Indirect Food Additives: General.

(5) Part 175 - Indirect Food Additives: Adhesives and Components of Coatings.

(6) Part 176 - Indirect Food Additives: Paper and Paperboard Components.

(7) Part 177 - Indirect Food Additives: Polymers.

(8) Part 178 - Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers.

(9) Part 179 - Irradiation in the Production, Processing and Handling of Food.

(10) Part 180 - Food Additives Permitted in Food on an Interim Basis or in Contact with Food Pending Additional Study.

(11) Part 181 - Prior-Sanctioned Food Ingredients.

(12) Part 182 - Substances Generally Recognized as Safe.

(13) Part 184 - Direct Food Substances Affirmed as Generally Recognized as Safe.

(14) Part 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe.

(15) Part 189 - Substances Prohibited From Use in Human Food.

AMENDATORY SECTION (Amending Order 6012, filed 12/26/96, effective 1/26/97)

**WAC 16-167-040 Color additives.** The following federal regulations prescribing the use or limited use of such color additives are adopted as Washington color additive regulations. 21 CFR Chapter 1 Subchapter A-General Revised as of April 1, ((1996)) 1997.

(1) Part 70 - Color Additives.

(2) Part 73 - Listing of Color Additives Exempt From Certification.

(3) Part 74 - Listing of Color Additives Subject to Certification.

(4) Part 81 - General Specifications and General Restrictions for Provisional Color Additives for Use in Foods, Drugs and Cosmetics.

(5) Part 82 - Listing of Provisionally Listed Colors and Specifications.

AMENDATORY SECTION (Amending Order 6012, filed 12/26/96, effective 1/26/97)

**WAC 16-167-050 General requirements.** The following federal regulations concerning food are adopted as Washington requirements for regulating food in intrastate commerce.

(1) 21 CFR Chapter 1 Subchapter A-General Revised as of April 1, ((1996)) 1997.

(a) Part 1 - General Enforcement Regulations.

(i) Subpart A General Provisions.

(ii) Subpart B General Labeling Requirements.

(b) Part 2 - General Administrative Rulings and Decisions.

(i) Subpart A General Provisions.

(ii) Subpart B Human and Animal Foods.

(c) Part 7 - Enforcement Policy.

(2) 21 CFR Chapter 1 Subchapter B-Food for Human Consumption.

(a) Part 100 - General.

(b) Part 101 - Food Labeling.

(c) Part 102 - Common or Usual Name for Nonstandardized Foods.

(d) ~~((Part 103 - Quality Standards for Foods With no Identity Standards.~~

~~((e)))~~ Part 104 - Nutritional Quality Guidelines for Foods.

~~((f)))~~ ~~((g)))~~ Part 105 - Foods for Special Dietary Use.

~~((h)))~~ ~~((i)))~~ Part 106 - Infant Formol Quality Control Procedures.

~~((j)))~~ ~~((k)))~~ Part 107 - Infant Formula.

~~((l)))~~ ~~((m)))~~ Part 108 - Emergency Permit Control.

~~((n)))~~ ~~((o)))~~ Part 109 - Unavoidable Contaminants in Food for Human Consumption and Food Packaging Material.

~~((p)))~~ ~~((q)))~~ Part 110 - Current Good Manufacturing Practice in Manufacturing, Packing and Holding Human Food.

~~((r)))~~ ~~((s)))~~ Part 111 - Current Good Manufacturing Practices for Dietary Supplements.

(l) Part 113 - Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

(m) Part 114 - Acidified Foods.

(n) Part 123 - Fish and Fishery Products.

(o) Part 129 - Processing and Bottling Bottled Drinking Water.

(p) Part 130 - Food Standards: General.

(q) Part 131 - Milk and Cream.

(r) Part 133 - Cheeses and Related Cheese Products.

(s) Part 135 - Frozen Desserts.

(t) Part 136 - Bakery Products.

(u) Part 137 - Cereal Flours and Related Products.

(v) Part 139 - Macaroni and Noodle Products.

(w) Part 145 - Canned Fruits.

(x) Part 146 - Canned Fruit Juices.

(y) Part 150 - Fruit Butters, Jellies, Preserves and Related Products.

(z) Part 152 - Fruit Pies.

(aa) Part 155 - Canned Vegetables.

(bb) Part 156 - Vegetable Juices.

- (cc) Part 158 - Frozen Vegetables.
- (dd) Part 160 - Eggs and Egg Products.
- (ee) Part 161 - Fish and Shellfish.
- (ff) Part 163 - Cacao Products.
- (gg) Part 164 - Tree Nut and Peanut Products.
- (hh) Part 165 - Beverages.
- (ii) Part 166 - Margarine.
- (jj) Part 168 - Sweeteners and Table Syrups.
- (kk) Part 169 - Food Dressings and Flavorings.

**AMENDATORY SECTION** (Amending Order 5065, filed 12/27/94, effective 1/27/95)

**WAC 16-167-060 Compliance policy guidelines.** The following compliance policy guidelines are adopted as Washington regulations for regulating food in intrastate commerce. Food and Drug Administration Compliance Policy Guides revised as of August 1996.

- ~~((1) Chapter 1 Beverage.~~
- ~~(2) Chapter 2 Baked Goods.~~
- ~~(3) Chapter 3 Food Storage.~~
- ~~(4) Chapter 4 Processed Grain.~~
- ~~(5) Chapter 5 Candy and Sugar.~~
- ~~(6) Chapter 6 Dairy.~~
- ~~(7) Chapter 7 Egg Industry.~~
- ~~(8) Chapter 8 Fish and Seafood.~~
- ~~(9) Chapter 9 Condiment Industry.~~
- ~~(10) Chapter 10 Fruit.~~
- ~~(11) Chapter 12 Nut.~~
- ~~(12) Chapter 13 Edible Oil.~~
- ~~(13) Chapter 14 Vegetable.~~
- ~~(14) Chapter 16 Multiple Food.~~
- ~~(15) Chapter 17 Food Related.~~
- ~~(16) Chapter 18 Dietary Food.~~
- ~~(17) Chapter 20 Food General.~~
- ~~(18) Chapter 27 Color.~~
- ~~(19) Chapter 41 Pesticides.~~
- ~~(20) Chapter 51 Inspectional-))~~ Chapter 5 - Foods, Colors and Cosmetics.

- (1) Subchapter 500 - Additives.
- (2) Subchapter 505 - Bakery Products.
- (3) Subchapter 510 - Beverages.
- (4) Subchapter 515 - Candy and Sugar.
- (5) Subchapter 520 - Canned Foods.
- (6) Subchapter 525 - Condiment Industry.
- (7) Subchapter 527 - Dairy.
- (8) Subchapter 530 - Dietary Supplements.
- (9) Subchapter 535 - Edible Oils.
- (10) Subchapter 537 - Egg Industry.
- (11) Subchapter 540 - Fish and Seafood.
- (12) Subchapter 545 - Food Related.
- (13) Subchapter 550 - Fruits.
- (14) Subchapter 555 - General.
- (15) Subchapter 562 - Labeling.
- (16) Subchapter 565 - Meat and Poultry.
- (17) Subchapter 570 - Nut.
- (18) Subchapter 575 - Pesticides.
- (19) Subchapter 578 - Processed Grains.
- (20) Subchapter 580 - Storage.
- (21) Subchapter 585 - Vegetables.
- (22) Subchapter 587 - Colors.

**WSR 98-04-082**  
**EXPEDITED ADOPTION**  
**DEPARTMENT OF AGRICULTURE**

[Filed February 4, 1998, 11:26 a.m.]

Title of Rule: Emergency adjudicative proceedings in WAC 16-08-151.

Purpose: Pursuant to RCW 34.05.479, the department may use emergency adjudicative proceedings in situations involving an immediate danger to public health, safety or welfare. Situations when an emergency proceeding may be used are provided for in the agency practice and procedure rules as well as when a proceeding can be requested.

Statutory Authority for Adoption: Chapter 34.05 RCW.  
Statute Being Implemented: RCW 34.05.479.

Summary: The proposed changes to the emergency adjudicative rule include clarification that a person whose animals are quarantined under chapter 16.36 RCW an emergency adjudicative proceeding is used. The proposed amendments also provide that a person may request a hearing within five days from service of an agency order. Presently the rule provides that a person may request a hearing from forty-eight hours of receipt of the order.

Reasons Supporting Proposal: It is the practice of the department to offer a person whose animal is quarantined an emergency adjudicative proceeding. This has been clarified in the rule. The change concerning when a person may request a hearing to five days from service of an order is consistent with the definition of service and computation of any allowed time periods under the Administrative Procedure Act, chapter 34.05 RCW and the model rules, chapter 10-08 WAC.

Name of Agency Personnel Responsible for Drafting: Deborah L. Anderson, 1111 North Washington, Natural Resources Building, Olympia, WA 98504, (360) 902-1808; Implementation and Enforcement: Dannie McQueen, 1111 North Washington, Natural Resources Building, Olympia, WA 98504, (360) 902-1809.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Pursuant to RCW 34.05.479, the department may use emergency adjudicative proceedings in situations involving an immediate danger to public health, safety or welfare. The proposed changes to the agency emergency adjudicative rule include clarification that when a person's animals are quarantined by the department under chapter 16.36 RCW, that person may request an emergency adjudicative proceeding. The proposed amendments also provide that a person may request a hearing within five days from service of an agency order. Presently the rule provides that a person may request a hearing from forty-eight hours of receipt of the order. The proposed changes clarify the rules and are consistent with the Administrative Procedure Act.

Proposal Changes the Following Existing Rules: An emergency adjudicative proceeding is used in situations involving an immediate danger to the public health, safety and welfare. New language is added to include when animals are quarantined under chapter 16.36 RCW; and the time frame for requesting an adjudicative proceeding has

EXPEDITED ADOPTION

been amended to "five days from service" of an order, from "forty-eight hours from receipt."

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Deborah L. Anderson, Administrative Regulations Analyst, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY April 6, 1998.

February 4, 1998  
William E. Brookreson  
Assistant Director

**AMENDATORY SECTION** (Amending WSR 93-10-059, filed 4/30/93, effective 5/31/93)

**WAC 16-08-151 Emergency adjudicative proceedings.** (1) Pursuant to RCW 34.05.479, the department shall use emergency adjudicative proceedings for the suspension or cancellation of authority in situations involving an immediate danger to the public health, safety, or welfare requiring immediate action by the department. Such situations shall include:

(a) Failure to possess required insurance, bonding or other security.

(b) Health, safety, or welfare violations when the violation involves an immediate danger to the public health, safety, or welfare, including, but not limited to, decisions by the department to condemn horticultural plants under chapter 15.13 RCW; or to condemn infested or infected articles under chapter 15.08 RCW; or to issue stop sale, use, or removal order under chapter 15.49 RCW; or to quarantine apiaries under chapter 15.60 RCW; or to quarantine animals under chapter 16.36 RCW; or to impound infested, infected, or regulated articles pursuant to chapter 17.24 RCW; or to close food processing facilities under chapter 69.07 RCW; or under rules or regulations of the director adopted pursuant to such laws.

(2) The summary order shall include a brief statement of findings of fact, conclusions of law, and justification for the determination of an immediate danger to the public health, safety, or welfare. The order shall be effective when entered. Service of the order shall be made pursuant to WAC 10-08-110. The order shall also give the affected party (~~forty-eight hours from receipt~~) five days from service of the order to request an adjudicative proceeding on the order, or, in the alternative, the director may in the order automatically establish a date affording the affected party the opportunity to present any defense concerning why the summary order is incorrect.

(3) A decision made upon the emergency adjudicative proceeding shall be expressed in a written order which shall be served on all parties within five days after its entry. This written order is a final order.

(4) The summary order shall be effective pending disposition on the merits of the denial, suspension or revocation of authority.

WSR 98-04-084

EXPEDITED ADOPTION

INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter No. R 98-1—Filed February 4, 1998, 11:30 a.m.]

Title of Rule: Regulatory improvement.

Purpose: Repeal various outdated or inefficient sections of Title 284 WAC.

Statutory Authority for Adoption: RCW 48.02.060, 48.17.150, 48.44.040, 48.46.200.

Statute Being Implemented: RCW 48.17.150, 48.44.050, 48.46.200.

Summary: WAC 284-17-300, 284-51-180, 284-58-040, 284-58-050 and 284-58-060 were suggested for repeal as a part of the commissioner's on-going regulatory improvement rules review.

Reasons Supporting Proposal: There should be two main effects of these repeals: (1) Removal of several of the sections should make the code more efficient and improve clarity; and (2) removal of several of the sections should alleviate some of the burdens of compliance.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jon Hedegard, Lacey, Washington, (360) 407-0728.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will repeal various sections of Title 284 WAC. The affected sections include WAC 284-17-300, concerns the continuing education advisory committee, a committee that has not met in several years; WAC 284-51-180, regards a form for coordination of benefits (COB) that is somewhat duplicative and not essential; WAC 284-58-040, 284-58-050, and 284-58-060, concern filing requirements for disability filings that are not necessary for the review of the filings.

The result of the removal of these sections should aid in making the code clearer and more useful. The removal of the COB and the disability form sections should make compliance easier, quicker, and provide less costly.

Proposal Changes the Following Existing Rules: It eliminates WAC 284-17-300, 284-51-180, 284-58-040, 284-58-050, and 284-58-060.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY

**MUST BE SENT TO** Kacy Brandeberry, Office of the Insurance Commissioner, P.O. Box 40256, Olympia, WA 98504-0256, e-mail KacyB@oic.wa.gov, **AND RECEIVED BY** April 4, 1998.

February 4, 1998  
 Greg Scully  
 Deputy Commissioner

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 284-17-300 Continuing education advisory committee.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 284-51-180 Appendix A, form for "effect on benefits" provision.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 284-58-040 Life and disability filing report documents.  
 WAC 284-58-050 Document to be used in filing life and disability forms.  
 WAC 284-58-060 Document to be used in filing disability rates.

**WSR 98-04-085**

**EXPEDITED ADOPTION**

**INSURANCE COMMISSIONER'S OFFICE**

[Insurance Commissioner Matter No. R 98-3—Filed February 4, 1998, 11:33 a.m.]

**Title of Rule:** Fraternal risk based capital.

**Purpose:** To update the RBS formula and create new levels for regulatory action.

**Statutory Authority for Adoption:** RCW 48.02.060, 48.36A.100, and 48.36A.290.

**Statute Being Implemented:** RCW 48.36A.100 and 48.36A.290.

**Summary:** The RBS formula is being updated and new levels for regulatory action are created based upon the RBS level of the fraternal benefit society.

**Reasons Supporting Proposal:** These proposed rules would update the RBS formula for fraternal benefit societies and make it similar to that for life insurance companies. The updated formula is the one used by the National Fraternal Congress and therefore fraternal benefit societies will not be required to prepare two different RBS calculations.

**Name of Agency Personnel Responsible for Drafting:** Jim Tompkins, Lacey, Washington, (360) 407-0537; **Implementation and Enforcement:** John Woodall, Lacey, Washington, (360) 407-0535.

**Name of Proponent:** Deborah Senn, Insurance Commissioner, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** These proposed rules would update the RBS formula and create new regulatory control levels to be taken based upon the RBS level of the fraternal benefit society. These rules would make the RBS formula and regulatory control levels similar to those for life insurance companies. The RBS formula and control levels are used as an additional tool for the Insurance Commissioner to monitor the financial solvency of fraternal benefit societies. These rules would require fraternal benefit societies to either maintain or place their assets in prudent investments. Also, since the RBS formula proposed by this rule is the one used by the National Fraternal Congress, then fraternal benefit societies will only need to make the calculation once rather than twice, once for the National Fraternal Congress and a separate one for the state of Washington.

**Proposal Changes the Following Existing Rules:** The following sections would be amended: WAC 284-36A-010, 284-36A-020, 284-36A-025. WAC 284-36A-030 would be repealed.

**NOTICE**

**THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO** Kacy Brandeberry, Insurance Commissioner, P.O. Box 40256, Olympia, WA 98504-0256, e-mail KacyB@oic.wa.gov, **AND RECEIVED BY** April 4, 1997.

February 4, 1998

Greg J. Scully

Chief Deputy Commissioner

**AMENDATORY SECTION** (Amending WSR 96-22-064 (Matter No. R 96-5), filed 11/4/96, effective 12/5/96)

**WAC 284-36A-010 Definitions.** (1) "Adjusted RBS report" means an RBS report which has been adjusted by the commissioner in accordance with WAC 284-36A-020(4).

(2) "AVR" means asset valuation reserve.

~~((2))~~ (3) "Corrective order" means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required.

(4) "Fraternal benefit society" is defined at RCW 48.36A.010.

~~((3))~~ (5) "NAIC" means the National Association of Insurance Commissioners.

~~((4))~~ (6) "Negative trend" means, with respect to a fraternal benefit society, negative trend over a period of time, as determined in accordance with the "trend test calculation" included in the RBS instructions.

(7) "RBC" means risk-based capital.

~~((5))~~ (8) "RBS" means risk-based surplus.

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~~((6))~~ (9) "RBS instructions" means the RBS report including risk-based capital instructions adopted by the NAIC, except where specifically amended in WAC ~~((284-36A-055))~~ 284-36A-020 and 284-36A-025.

~~((7))~~ (10) "RBS level" means a fraternal benefit society's ~~((ratio of total adjusted surplus to risk-based surplus))~~ society action level RBS, regulatory action level RBS, authorized control level RBS, or mandatory control level RBS where:

(a) "Society action level RBS" means, with respect to a fraternal benefit society, the product of 2.0 and its authorized control level RBS;

(b) "Regulatory action level RBS" means the product of 1.5 and its authorized control level RBS;

(c) "Authorized control level RBS" means the number determined under the risk-based surplus formula in accordance with the RBS instructions;

(d) "Mandatory control level RBS" means the product of .70 and the authorized control level RBS.

~~((8))~~ (11) "RBS plan" means a comprehensive financial plan containing the elements specified in WAC 284-36A-040(2). If the commissioner rejects the RBS plan, and it is revised by the fraternal benefit society, with or without the commissioner's recommendation, the plan shall be called the "revised RBS plan."

(12) "RBS report" means the report required in WAC 284-36A-050 and ~~((284-36A-055))~~ 284-36A-020.

~~((9))~~ (13) "Total adjusted surplus" means the sum of:

(a) A fraternal benefit society's statutory surplus as determined in accordance with statutory accounting applicable to the annual financial statement required to be filed under RCW 48.36A.260; and

(b) Other items, if any, as the RBS instructions may provide.

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 96-22-064 (Matter No. R 96-5), filed 11/4/96, effective 12/5/96)

**WAC 284-36A-020 Report of RBS level—Formula for determining level—Inaccurate reports adjusted by commissioner.** (1) On or prior to the annual filing date, which is hereby established as ~~((March))~~ April 1, every fraternal benefit society authorized to transact insurance business in this state, shall prepare and submit to the commissioner a report of its RBS level as of the end of the calendar year just ended, in a form and containing all information required by the RBS instructions.

(2) The RBS of a fraternal benefit society shall be determined in accordance with the formula set forth in the RBS instructions. The formula shall take into account and may adjust for the covariance between:

(a) The risk with respect to the assets of the fraternal benefit society;

(b) The risk of adverse insurance experience with respect to the liabilities and obligations of the fraternal benefit society;

(c) The interest rate risk with respect to the business of the fraternal benefit society; and

(d) All other business risks and other relevant risks as are set forth in the RBS instructions, determined in each case by applying the factors in the manner set forth in the RBS instructions.

(3) An excess of surplus over the amount produced by the RBS requirements and the formulas, schedules, and instructions under this chapter is desirable in the insurance business of fraternal benefit societies. Accordingly, fraternal benefit societies should seek to maintain unimpaired surplus above the RBS level required. Additional unimpaired surplus is used and useful in the insurance business of fraternal benefit societies and helps to secure a fraternal benefit society against various risks inherent in, or affecting, the insurance business of fraternal benefit societies and not accounted for or only partially measured by the RBS requirements.

(4) If a fraternal benefit society files an RBS report that in the judgment of the commissioner is inaccurate, then the commissioner shall adjust the RBS report to correct the inaccuracy and shall notify the fraternal benefit society of the adjustment. The notice shall contain a statement of the reason for the adjustment. An RBS report as so adjusted is referred to as an "adjusted RBS report."

**AMENDATORY SECTION** (Amending WSR 96-22-064 (Matter No. R 96-5), filed 11/4/96, effective 12/5/96)

**WAC 284-36A-025 Risk-based surplus (RBS) financial standard formula.** (1) The risk-based surplus financial standard formula is set forth at subsection (2) of this section. Additional instructions for preparing the formula are set forth at subsection (3) of this section. This standard is based on the NAIC Risk-Based Capital formula. ~~((This formula is calculated for three major categories of risk, referred to as the C-1, C-2, and C-3 risks. For each category, the RBS is equal to factors multiplied by the amount at risk. RBS is compared to total adjusted surplus. Total adjusted surplus is equal to society surplus plus the AVR plus one half of the dividend liability plus voluntary investment reserves. The RBS ratio is equal to the total adjusted surplus divided by total RBS.~~

~~((a) Asset Default Risk (C-1). The first category of risk is asset default (C-1). An RBS is calculated for most invested assets. For each asset type, the RBS is equal to a factor multiplied by the annual statement value of the asset. Lower asset quality and higher asset price volatility both indicate higher risk and therefore higher RBS. A size factor is used to increase the bond RBS. This size factor is based on the number of bond issuers. The idea is that risk is greater when there are fewer bond issuers. In addition, a concentration factor increases the RBS for bond and mortgage assets. Basically, the concentration factor doubles the RBS for the ten largest assets.~~

~~((b) Insurance Risk (C-2). The second category of risk is the insurance risk (C-2). RBS is required for potential fluctuation in mortality and morbidity. RBS for health insurance is equal to factors multiplied by health premium and claim reserves. RBS for life insurance is equal to factors multiplied by net amounts at risk.~~

~~((c) Interest Rate Risk (C-3). The third category is the interest rate risk (C-3). This is the risk of losses due to changes in the interest rate levels. The impact of interest~~

~~rate changes will be greatest on those products where guarantees are most in favor of the contract holder and where the contract holder is most likely to be responsive to changes in interest rates. Therefore, risk categories vary by withdrawal provision. The amount at risk is represented by reserves for annuities, life insurance, dividend accumulations, and other fund deposits. The RBS is equal to those reserves multiplied by factors.~~

~~(d) Total Risk Based Surplus. The total RBS is not the simple sum of the three pieces. The combined risk is less than the sum to recognize that not all losses occur at the same time. The assumption is that the default (C-1) and interest rate (C-3) risks are correlated. The total RBS is equal to the square root of the following: The sum of the asset default RBS (C-1), plus interest rate RBS (C-3) squared, plus the insurance RBS (C-2) squared:~~

- ~~(i) C-1 plus C-3~~
- ~~(ii) (i) squared~~
- ~~(iii) C-2 squared~~
- ~~(iv) (ii) plus (iii)~~
- ~~(v) square root of (iv))~~

~~(2) The following risk-based surplus worksheet shall be provided to the commissioner in accordance with the requirements of WAC ((284-36A-050)) 284-36A-020(1).~~

~~(3) The following instructions shall be used to prepare the worksheet set forth in subsection (2) of this section.~~

EXPEDITED ADOPTION

Washington State Insurance Commissioner

1997 Risk Based Surplus

for:

Society Name

Mail Address of Contact

City State, Zip

Contact Person for Risk-Based Surplus

Phone Number

Date Prepared

Preparer, if different than contact

State of Domicile



Asset Risk (C-1) - Long and Short-Term Bonds			(1)	(2)
SVO Bond Rating Category	Annual Statement Source *	Statement Value	Factor	RBS Requirement
<b>Long Term Bonds</b>				
(1) Exempt Obligations	AVRDC L1 CI		0.000	
(2) Asset class 1	AVRDC L2 CI		0.003	
(3) Asset class 2	AVRDC L3 CI		0.010	
(4) Asset class 3	AVRDC L4 CI		0.040	
(5) Asset class 4	AVRDC L5 CI		0.090	
(6) Asset class 5	AVRDC L6 CI		0.200	
(7) Asset class 6	AVRDC L7 CI		0.300	
(8) Total Bonds before Size Factor = Sum of Lines (1) through (7) <i>L(8) C(1) should equal P2 L1 C4</i>				
<b>Short Term Bonds</b>				
(9) Exempt Obligations	AVRDC L18 CI		0.000	
(10) Asset class 1	AVRDC L19 CI		0.003	
(11) Asset class 2	AVRDC L20 CI		0.010	
(12) Asset class 3	AVRDC L21 CI		0.040	
(13) Asset class 4	AVRDC L22 CI		0.090	
(14) Asset class 5	AVRDC L23 CI		0.200	
(15) Asset class 6	AVRDC L24 CI		0.300	
(16) Total Bonds before Size Factor = Sum of Lines (9) through (15) <i>L(16) C(1) should equal Sch DA Part 1 L4199999 + L4899999 + L4999999 C10</i>				
(17) Total Long- and Short-Term Bonds = L(8) + L(16)				
(18) Non-exempt Asset Class 1 U.S. Government Agency Bonds	Sch D Pt 1 Class 1 Bonds and Sch DA Pt 1 Class 1 Bonds, in part**		0.003	
(19) Bonds Subject to Size Factor = L(17) - L(1) - L(9) - L(18)				
(20) Number of Bond Issuers	Company Records			
(21) Size Factor for Bonds				2.500
(22) Bond Size Factor RBC = L(19) C(2) x L(21) C(2)				
(23) Total Bond RBC = L(18) C(2) + L(22) C(2)				

\* AVRDC refers to the "Asset Valuation Reserve - Default Component" page in the annual statement  
 \*\* Only investments in asset Class 1 US Gov. agency bonds previously reported in L(2) and L(10) should be included on this line. Exempt U.S. Government bonds shown on L(1) and L(9) should not be included on Line (18). See bond instructions for more clarification.

**Asset Risk (C-1) - Mortgage Experience Adjustment**

(1) Does your company have 5 plus years of mortgage experience? Enter "Y" for yes or enter "N" for no.

Quarter and Year	(1) Sch B Pt2 S1B L9999999 End of Period Restructured Mortgages	(2) Sch B Pt2 S2 L9999999 End of Period Mortgages 90 Days Overdue	(3) Sch B Pt2 S3 L9999999 End of Period Mortgages in Process of Foreclosure	(4) Sch B Pt 3 L9999999 End of Period Mortgages Transferred to Real Estate	(5) P2 C4 L3.1 + L3.2 End of Period Total Mortgages	(6) Ratio*
September 1994	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX		XXXXXXXXXX	XXXXXXXXXX
December 1994						
March 1995						
June 1995						
September 1995						
December 1995						
March 1996						
June 1996						
September 1996						

(11) Society Average Delinquency Rate (Average of C(6))

(12) Industry Average Delinquency Rate (Provided by NAIC)

0.065

(13) Mortgage Experience Adjustment Factor for Mortgages in good standing =  $L(11)/L(12)$  (not more than 3.0 nor less than 0.5)

(14) Mortgage Experience Adjustment Factor for Overdue mortgages =  $L(11)/L(12)$  (not more than 2.5 nor less than 1.0)

\* Calculation for quarterly amounts except March:  $[0.50 \cdot C(1) + C(2) + C(3) + [C(4) \text{ current quarter less } C(4) \text{ previous quarter}]] / [C(5) + [C(4) \text{ current quarter less } C(4) \text{ previous quarter}]]$ ; and, the calculation for the first quarterly amounts (March):  $[0.50 \cdot C(1) + C(2) + C(3) + C(4) \text{ current quarter}] / [C(5) + C(4) \text{ current quarter}]$ .

Asset Risk (C-1) - Mortgages		(1)	(2)	(3)	(4)	(5)			
		Annual Statement Source	Book Value	Non-admit Adjustment @	Invol Reserve Adjustment *	RBS Subtotal	Factor	MEA Factor**	RBS Requirement
<b>Farm Mortgages</b>		Sch B Pt 2:							
(1) In good standing		S1A L0399999 C5					0.030		
(2) 90 days overdue		S2 L0399999 C5					0.060		
<b>Insured or Guaranteed Mortgages</b>		Sch B Pt 2:							
(3) In good standing -residential, commercial & comm. restructured		S1A L0499999 + L0899999 C5					0.001		
(4) 90 days overdue		S2 L0499999 + L0899999 C5					0.002		
<b>Residential Mortgages not Insured or Guaranteed</b>		Sch B Pt 2:							
(5) In good standing		S1A L0599999 + L0699999 C5					0.005		
(6) 90 days overdue		S2 L0599999 + L0699999 C5					0.010		
<b>Commercial Mortgages not Insured or Guaranteed</b>		Sch B Pt 2:							
(7) In good standing		S1A L0999999 + L1099999 C5					0.030		
(8) 90 days overdue		+ S1B L0299999 + L0399999 C5 S2 L0999999 + L1099999 C5					0.060		
<b>Due and Unpaid Taxes and Mortgages in Foreclosure</b>		Sch B Pt 2:							
(9) Mortgages in Foreclosure		S3 L9999999 C5					0.200	1.000	
(10) Due and unpaid taxes		S2 L9999999 C9 & S3 L9999999 C9					1.000	1.000	
(11) Total mortgages (incl due and unpaid taxes) = Sum of Ls (1) through (10)									
<i>L(11) C(f) should equal P2 L3.1 + L3.2 C4 + Sch B Pt2 S2 &amp; S3 L9999999 C9 admitted amounts less involuntary reserves</i>									

@ Non-admitted amounts should be entered in this section only if the values in schedule B have not previously been adjusted.  
 \* Involuntary reserves are reserves that are held as an offset to a particular asset that is clearly a troubled asset and are included on Page 3, L23, C1 of the annual statement.  
 \*\* The Mortgage Experience Adjustment Factor for L(1) through L(8) is automatically determined on page 2-1

EXPEDITED ADOPTION

Asset Risk (C-1) - Unaffiliated Preferred and Common Stock		(1)	(2)	(3)	(4)
		Annual Statement Source*	Less Affiliated Stock	RBS Subtotal	RBS Requirement
		Statement Value	Factor Or Calc		
<b>Unaffiliated Preferred Stock</b>					
(1) Asset Class 1	AVRDC L10 C1			0.023	
(2) Asset Class 2	AVRDC L11 C1			0.030	
(3) Asset Class 3	AVRDC L12 C1			0.060	
(4) Asset Class 4	AVRDC L13 C1			0.110	
(5) Asset Class 5	AVRDC L14 C1			0.220	
(6) Asset Class 6	AVRDC L15 C1			0.300	
(7) Total = Sum of L(1) through L(6)					
<i>L(7) C(1) should equal P2 L2.1 C4, and L(7) C(2) should equal Sch D Sum L39 C3</i>					
<b>Unaffiliated Common Stock</b>					
(8) Total Common Stock	Sch D Summary L54 C3				
(9) Less Affiliated Common Stock	Sch D Summary L53 C3				
(10) Less Money Market Funds	Included in Sch D P2 S2			0.003	
(11) Less Federal Home Loan Bank Common Stock	Included in Sch D P2 S2			0.023	
(12) Total of other unaffiliated common stock	L(8) - L(9) - L(10) - L(11)			0.300	
(13) Total Unaffil. Common Stock =	L(10) + L(11) + L(12)				
<i>L(13) C(1) should equal P2 L2.2 C4 less Sch D Sum L53 + L54 C3 less L(10) less L(11)</i>					
(14) Total Preferred & Common Stock =	L(7) + L(13)				

\*AVRDC refers to the "Asset Valuation Reserve Default Component" page of the annual statement.

<b>Asset Risk (C-1) - Separate Accounts</b>	<b>(1)</b>	<b>(2)</b>
	<b>Statement Value</b>	<b>RBS Requirement</b>
<b>Separate Accts w/ Guarantees</b>	<b>Annual Statement Source</b>	<b>Factor or Calculation#</b>
(1) Guaranteed indexed	P2 L22 C4 in part (asset value)	0.003
(2) Non-indexed, non-Reg 128	Company Records	0.000
(3) Non-indexed, Reg 128*	Company Records	0.000
(4) Total Assets in Separate Accounts w/ Guarantees* = L(1) + L(2) + L(3)		
<b>Surplus in Non-Guaranteed Separate Accounts</b>		
(5) Assets in separate accounts	P2 L22 C4 in part	0.100
(6) Less Liabilities in separate accounts	P3 L25 C1 in part	-0.100
(7) Expense Allowance Transfers - with CARVM allowance determined as a percentage of assets	P3 L12A C1 in part**	0.100
(8) Expense Allowance Transfers - All other	P3 L12A C1 in part**	0.020
(9) Total Surplus in Non-Guaranteed Separate Accounts* = L(5) - L(6) + L(7) + L(8)		
(10) Total Separate Acct Assets = L(4) C(1) + L(5) C(1)		
L(10) C(1) should equal P2 L22 C4		

\* Amount reported in column (2) should not be less than 0.

\*\* The statement value of expense allowance transfers for L(7) and L(8) should be entered as a positive value.

# See Instructions for the calculation factor for L(2) and L(3)

Asset Risk (C-1)

Separate Accounts

Page 5-1

<b>Asset Risk (C-1) - Real Estate</b>		(1)	Factor	(2)
	Annual Statement Source	Statement Value		RBS Requirement
<b>Real Estate</b>				
(1) Society occupied	P2 L4.1 C4			
(2) Plus Society occupied encumbrances	P2 L4.1 inside amt			
(3) Less Society occupied involuntary reserves*	P3 L23 C1 in part		0.100	
(4) Total Society occupied real estate = L(1) + L(2) - L(3)				
(5) Foreclosed	P2 L4.2 C4			
(6) Plus foreclosed encumbrances	P2 L4.2 inside amt			
(7) Less foreclosed involuntary reserves*	P3 L23 C1 in part		0.150	
(8) Total foreclosed real estate = L(5) + L(6) - L(7)				
(9) Investment	P2 L4.3 C4			
(10) Plus investment encumbrances	P2 L4.3 inside amt			
(11) Less investment involuntary reserves*	P3 L23 C1 in part		0.100	
(12) Total investment real estate = L(9) + L(10) - L(11)				
(13) Total Real Estate = L(4) + L(8) + L(12)				
<i>L(13) = P2 L4.1 + L4.2 + L4.3 C4 plus the inside amounts less total involuntary reserves</i>				

\* Involuntary reserves are reserves that are held as an offset to a particular asset that is clearly a troubled asset and are included on Page 3, L23, C1 of the fraternal annual statement.

**Asset Risk (C-1) - Other Long-Term Assets**

Sch BA - Fixed Income - Bonds	Annual Statement Source	(1) Statement Value	(2) Less Unrated Items@	(3) RBS Subtotal	Factor	(4) RBS Requirement
(1) Exempt Obligations	AVREC** L22 CI				0.000	
(2) Asset Class 1	AVREC** L23 CI				0.003	
(3) Asset Class 2	AVREC** L24 CI				0.010	
(4) Asset Class 3	AVREC** L25 CI				0.040	
(5) Asset Class 4	AVREC** L26 CI				0.090	
(6) Asset Class 5	AVREC** L27 CI				0.200	
(7) Asset Class 6	AVREC** L28 CI				0.300	
(8) Total Sch BA Bonds = Sum of L(1) through L(7)						
<b>Sch BA - Fixed Income - Preferred Stock</b>						
(9) Asset Class 1	AVREC** L30 CI					
(10) Less rated Class 1 surplus notes	L(18) C(1)				0.023	
(11) Net Asset Class 1 = L(9) - L(10)					0.030	
(12) Asset Class 2	AVREC** L31 CI				0.060	
(13) Asset Class 3	AVREC** L32 CI				0.110	
(14) Asset Class 4	AVREC** L33 CI				0.220	
(15) Asset Class 5	AVREC** L34 CI				0.300	
(16) Asset Class 6	AVREC** L35 CI					
(17) Total Sch BA Pref Stock = Sum of L(11) through L(16)						
<b>Rated Surplus Notes</b>						
(18) Asset Class 1	Sch BA Pt 1: L1199999 C7 in part				0.023	
(19) Asset Class 2	L1199999 C7 in part				0.030	
(20) Asset Class 3	L1199999 C7 in part				0.060	
(21) Asset Class 4	L1199999 C7 in part				0.110	
(22) Asset Class 5	L1199999 C7 in part				0.220	
(23) Asset Class 6	L1199999 C7 in part				0.300	
(24) Total Rated Surplus Notes = Sum of L(18) through L(23)						
<b>Sch BA - All Other</b>						
(25) Mortgage Loans	AVREC** L54 CI				0.200	
(26) Common Stock	AVREC** L60 CI				0.300	
(27) Real Estate	AVREC** L64 CI				0.200	
(28) Other Sch BA Assets	AVREC** L65 CI					
(29) Less Class 2 thru 6 surplus notes = Sum of L(19) thru L(23)						
(30) Net Other Sch BA Assets = L(28) - L(29)						
(31) Total BA Assets = L(8) + L(17) + L(24) through L(27) + L(30)					0.300	
L(27) C(1) should equal the total Sch BA assets reported in the annual statement						

\*\* AVREC refers to the "Asset Valuation Reserve - Equity Component" page of the annual statement  
 @ Fixed income instruments not carrying a rating from the SVO or a nationally rated statistical rating organization will be reported on C(2).

Asset Risk (C-1)

Long-Term Assets

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EXPEDITED ADOPTION

EXPEDITED ADOPTION

<u>Asset Risk (C-1) - Concentration Factor</u>		(1)	(2)	(3)	(4)	(5)	(6)
Issuer/Mortgagee #1	Type of Asset	Combined Statement Value	RBS Factor	Additional RBS	Subsidiary RBS or RBC	Net RBS	
1.01	Class 2 Unaffiliated Bond		0.010				
1.02	Class 3 Unaffiliated Bond		0.040				
1.03	Class 4 Unaffiliated Bond		0.090				
1.04	Class 5 Unaffiliated Bond		0.100				
1.05	Class 1 Unaffiliated Bond*		0.003				
1.06	Unaffiliated Preferred Stock Class 1		0.023				
1.07	Unaffiliated Preferred Stock Class 2		0.030				
1.08	Unaffiliated Preferred Stock Class 3		0.060				
1.09	Unaffiliated Preferred Stock Class 4		0.110				
1.10	Unaffiliated Preferred Stock Class 5		0.080				
1.11	Real Estate Foreclosed		0.150				
1.12	Real Estate Foreclosed Encumbrances		0.150				
1.13	Real Estate Investment		0.100				
1.14	Real Estate Investment Encumbrances		0.100				
1.15	Schedule BA Real Estate		0.100				
1.16	Farm mortgage in good standing		0.030				
1.17	Farm mortgage 90 days overdue		0.060				
1.18	Residential mortgage 90 days overdue (not ins or gtd)		0.010				
1.19	Commercial mortgage in good standing (not ins or gtd)		0.030				
1.20	Commercial mortgage 90 days overdue (not ins or gtd)		0.060				
1.21	Mortgages in foreclosure		0.100				
1.22	Sch BA Mortgages		0.100				
1.23	Collateral loans		0.050				
1.24	Write-ins		0.050				
1.25	Premium Notes		0.050				
1.99	Issuer Total						

\* Class 1 Bonds alone should not be included in the top ten (10) issuers.



(1) Type of Asset	(2) Combined Statement Value	(3) RBS Factor	(4) Additional RBS	(5) Subsidiary RBS or RBC	(6) Net RBS
2. Issuer/Mortgagee #2					
2.01 Class 2 Unaffiliated Bond		0.010			
2.02 Class 3 Unaffiliated Bond		0.040			
2.03 Class 4 Unaffiliated Bond		0.090			
2.04 Class 5 Unaffiliated Bond		0.100			
2.05 Class 1 Unaffiliated Bond*		0.003			
2.06 Unaffiliated Preferred Stock Class 1		0.023			
2.07 Unaffiliated Preferred Stock Class 2		0.030			
2.08 Unaffiliated Preferred Stock Class 3		0.060			
2.09 Unaffiliated Preferred Stock Class 4		0.110			
2.10 Unaffiliated Preferred Stock Class 5		0.080			
2.11 Real Estate Foreclosed		0.150			
2.12 Real Estate Foreclosed Encumbrances		0.150			
2.13 Real Estate Investment		0.100			
2.14 Real Estate Investment Encumbrances		0.100			
2.15 Schedule BA Real Estate		0.100			
2.16 Farm mortgage in good standing		0.030			
2.17 Farm mortgage 90 days overdue		0.060			
2.18 Residential mortgage 90 days overdue (not ins or gtd)		0.010			
2.19 Commercial mortgage in good standing (not ins or gtd)		0.030			
2.20 Commercial mortgage 90 days overdue (not ins or gtd)		0.060			
2.21 Mortgages in foreclosure		0.100			
2.22 Sch BA Mortgages		0.100			
2.23 Collateral loans		0.030			
2.24 Write-ins		0.050			
2.25 Premium Notes		0.050			
2.99 Issuer Total		0.050			

\* Class 1 Bonds alone should not be included in the top ten (10) issuers.

Asset Risk (C-1)

Concentration Factor

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**EXPEDITED ADOPTION**

(1) Type of Asset Issuer/Mortgagee #3	(2) Combined Statement Value	(3) RBS Factor	(4) Additional RBS	(5) Subsidiary RBS or RBC	(6) Net RBS
3.01 Class 2 Unaffiliated Bond		0.010			
3.02 Class 3 Unaffiliated Bond		0.040			
3.03 Class 4 Unaffiliated Bond		0.090			
3.04 Class 5 Unaffiliated Bond		0.100			
3.05 Class 1 Unaffiliated Bond*		0.003			
3.06 Unaffiliated Preferred Stock Class 1		0.023			
3.07 Unaffiliated Preferred Stock Class 2		0.030			
3.08 Unaffiliated Preferred Stock Class 3		0.060			
3.09 Unaffiliated Preferred Stock Class 4		0.110			
3.10 Unaffiliated Preferred Stock Class 5		0.080			
3.11 Real Estate Foreclosed		0.150			
3.12 Real Estate Foreclosed Encumbrances		0.150			
3.13 Real Estate Investment		0.100			
3.14 Real Estate Investment Encumbrances		0.100			
3.15 Schedule BA Real Estate		0.100			
3.16 Farm mortgage in good standing		0.030			
3.17 Farm mortgage 90 days overdue		0.060			
3.18 Residential mortgage 90 days overdue (not ins or gtd)		0.010			
3.19 Commercial mortgage in good standing (not ins or gtd)		0.030			
3.20 Commercial mortgage 90 days overdue (not ins or gtd)		0.060			
3.21 Mortgages in foreclosure		0.100			
3.22 Sch BA Mortgages		0.100			
3.23 Collateral loans		0.050			
3.24 Write-ins		0.050			
3.25 Premium Notes		0.050			
3.99 Issuer Total		0.050			

\* Class 1 Bonds alone should not be included in the top ten (10) issuers.

(1) Type of Asset Issuer/Mortgagee #4	(2) Combined Statement Value	(3) RBS Factor	(4) Additional RBS	(5) Subsidiary RBS or RBC	(6) Net RBS
4.01 Class 2 Unaffiliated Bond		0.010			
4.02 Class 3 Unaffiliated Bond		0.040			
4.03 Class 4 Unaffiliated Bond		0.090			
4.04 Class 5 Unaffiliated Bond		0.100			
4.05 Class 1 Unaffiliated Bond*		0.003			
4.06 Unaffiliated Preferred Stock Class 1		0.023			
4.07 Unaffiliated Preferred Stock Class 2		0.030			
4.08 Unaffiliated Preferred Stock Class 3		0.060			
4.09 Unaffiliated Preferred Stock Class 4		0.110			
4.10 Unaffiliated Preferred Stock Class 5		0.080			
4.11 Real Estate Foreclosed		0.150			
4.12 Real Estate Foreclosed Encumbrances		0.150			
4.13 Real Estate Investment		0.100			
4.14 Real Estate Investment Encumbrances		0.100			
4.15 Schedule BA Real Estate		0.100			
4.16 Farm mortgage in good standing		0.030			
4.17 Farm mortgage 90 days overdue		0.060			
4.18 Residential mortgage 90 days overdue (not ins or gtd)		0.010			
4.19 Commercial mortgage in good standing (not ins or gtd)		0.030			
4.20 Commercial mortgage 90 days overdue (not ins or gtd)		0.060			
4.21 Mortgages in foreclosure		0.100			
4.22 Sch BA Mortgages		0.100			
4.23 Collateral loans		0.050			
4.24 Write-ins		0.050			
4.25 Premium Notes		0.050			
4.99 Issuer Total					

\* Class 1 Bonds alone should not be included in the top ten (10) issuers.

EXPEDITED ADOPTION

(6)  
Net  
RBS

(5)  
Subsidiary  
RBS or RBC

(4)  
Additional  
RBS

(3)  
RBS  
Factor

(2)  
Combined  
Statement Value

(1)

Type of Asset

5. Issuer/Mortgagee #5

(1)	(2)	(3)	(4)	(5)	(6)
Type of Asset	Combined Statement Value	RBS Factor	Additional RBS	Subsidiary RBS or RBC	Net RBS
5.01 Class 2 Unaffiliated Bond		0.010			
5.02 Class 3 Unaffiliated Bond		0.040			
5.03 Class 4 Unaffiliated Bond		0.090			
5.04 Class 5 Unaffiliated Bond		0.100			
5.05 Class 1 Unaffiliated Bond*		0.003			
5.06 Unaffiliated Preferred Stock Class 1		0.023			
5.07 Unaffiliated Preferred Stock Class 2		0.030			
5.08 Unaffiliated Preferred Stock Class 3		0.060			
5.09 Unaffiliated Preferred Stock Class 4		0.110			
5.10 Unaffiliated Preferred Stock Class 5		0.080			
5.11 Real Estate Foreclosed		0.150			
5.12 Real Estate Foreclosed Encumbrances		0.150			
5.13 Real Estate Investment		0.100			
5.14 Real Estate Investment Encumbrances		0.100			
5.15 Schedule BA Real Estate		0.100			
5.16 Farm mortgage in good standing		0.030			
5.17 Farm mortgage 90 days overdue		0.060			
5.18 Residential mortgage 90 days overdue (not ins or gtd)		0.010			
5.19 Commercial mortgage in good standing (not ins or gtd)		0.030			
5.20 Commercial mortgage 90 days overdue (not ins or gtd)		0.060			
5.21 Mortgages in foreclosure		0.100			
5.22 Sch BA Mortgages		0.100			
5.23 Collateral loans		0.050			
5.24 Write-ins		0.050			
5.25 Premium Notes		0.050			
5.99 Issuer Total		0.050			

\* Class 1 Bonds alone should not be included in the top ten (10) issuers.

(1) Type of Asset	(2) Combined Statement Value	(3) RBS Factor	(4) Additional RBS	(5) Subsidiary RBS or RBC	(6) Net RBS
6. Issuer/Mortgagee #6					
6.01 Class 2 Unaffiliated Bond		0.010			
6.02 Class 3 Unaffiliated Bond		0.040			
6.03 Class 4 Unaffiliated Bond		0.090			
6.04 Class 5 Unaffiliated Bond		0.100			
6.05 Class 1 Unaffiliated Bond*		0.003			
6.06 Unaffiliated Preferred Stock Class 1		0.023			
6.07 Unaffiliated Preferred Stock Class 2		0.030			
6.08 Unaffiliated Preferred Stock Class 3		0.060			
6.09 Unaffiliated Preferred Stock Class 4		0.110			
6.10 Unaffiliated Preferred Stock Class 5		0.080			
6.11 Real Estate Forclosed		0.150			
6.12 Real Estate Forclosed Encumbrances		0.150			
6.13 Real Estate Investment		0.100			
6.14 Real Estate Investment Encumbrances		0.100			
6.15 Schedule BA Real Estate		0.100			
6.16 Farm mortgage in good standing		0.030			
6.17 Farm mortgage 90 days overdue		0.060			
6.18 Residential mortgage 90 days overdue (not ins or gtd)		0.010			
6.19 Commercial mortgage in good standing (not ins or gtd)		0.030			
6.20 Commercial mortgage 90 days overdue (not ins or gtd)		0.060			
6.21 Mortgages in foreclosure		0.100			
6.22 Sch BA Mortgages		0.100			
6.23 Collateral loans		0.050			
6.24 Write-ins		0.050			
6.25 Premium Notes		0.050			
6.99 Issuer Total					

\* Class 1 Bonds alone should not be included in the top ten (10) issuers.

EXPEDITED ADOPTION

(1) Type of Asset 7. Issuer/Mortgagee #7	(2) Combined Statement Value	(3) RBS Factor	(4) Additional RBS	(5) Subsidiary RBS or RBC	(6) Net RBS
7.01 Class 2 Unaffiliated Bond		0.010			
7.02 Class 3 Unaffiliated Bond		0.040			
7.03 Class 4 Unaffiliated Bond		0.090			
7.04 Class 5 Unaffiliated Bond		0.100			
7.05 Class 1 Unaffiliated Bond*		0.003			
7.06 Unaffiliated Preferred Stock Class 1		0.023			
7.07 Unaffiliated Preferred Stock Class 2		0.030			
7.08 Unaffiliated Preferred Stock Class 3		0.060			
7.09 Unaffiliated Preferred Stock Class 4		0.110			
7.10 Unaffiliated Preferred Stock Class 5		0.080			
7.11 Real Estate Foreclosed		0.150			
7.12 Real Estate Foreclosed Encumbrances		0.150			
7.13 Real Estate Investment		0.100			
7.14 Real Estate Investment Encumbrances		0.100			
7.15 Schedule BA Real Estate		0.100			
7.16 Farm mortgage in good standing		0.030			
7.17 Farm mortgage 90 days overdue		0.060			
7.18 Residential mortgage 90 days overdue (not ins or gtd)		0.010			
7.19 Commercial mortgage in good standing (not ins or gtd)		0.030			
7.20 Commercial mortgage 90 days overdue (not ins or gtd)		0.060			
7.21 Mortgages in foreclosure		0.100			
7.22 Sch BA Mortgages		0.100			
7.23 Collateral loans		0.050			
7.24 Write-ins		0.050			
7.25 Premium Notes		0.050			
7.99 Issuer Total					

\* Class 1 Bonds alone should not be included in the top ten (10) issuers.

(1)	(2)	(3)	(4)	(5)	(6)
<u>Type of Asset</u>	<u>Combined Statement Value</u>	<u>RBS Factor</u>	<u>Additional RBS</u>	<u>Subsidiary RBS or RBC</u>	<u>Net RBS</u>
8. Issuer/Mortgagee #8					
8.01 Class 2 Unaffiliated Bond		0.010			
8.02 Class 3 Unaffiliated Bond		0.040			
8.03 Class 4 Unaffiliated Bond		0.090			
8.04 Class 5 Unaffiliated Bond		0.100			
8.05 Class 1 Unaffiliated Bond*		0.003			
8.06 Unaffiliated Preferred Stock Class 1		0.023			
8.07 Unaffiliated Preferred Stock Class 2		0.030			
8.08 Unaffiliated Preferred Stock Class 3		0.060			
8.09 Unaffiliated Preferred Stock Class 4		0.110			
8.10 Unaffiliated Preferred Stock Class 5		0.080			
8.11 Real Estate Foreclosed		0.150			
8.12 Real Estate Foreclosed Encumbrances		0.150			
8.13 Real Estate Investment		0.100			
8.14 Real Estate Investment Encumbrances		0.100			
8.15 Schedule BA Real Estate		0.100			
8.16 Farm mortgage in good standing		0.030			
8.17 Farm mortgage 90 days overdue		0.060			
8.18 Residential mortgage 90 days overdue (not ins or gtd)		0.010			
8.19 Commercial mortgage in good standing (not ins or gtd)		0.030			
8.20 Commercial mortgage 90 days overdue (not ins or gtd)		0.060			
8.21 Mortgages in foreclosure		0.100			
8.22 Sch BA Mortgages		0.100			
8.23 Collateral loans		0.050			
8.24 Write-ins		0.050			
8.25 Premium Notes		0.050			
8.99 Issuer Total		0.050			

\* Class 1 Bonds alone should not be included in the top ten (10) issuers.

Asset Risk (C-1)

Concentration Factor

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**EXPEDITED ADOPTION**

(1)	(2) Combined Statement Value	(3) RBS Factor	(4) Additional RBS	(5) Subsidiary RBS or RBC	(6) Net RBS
<u>Type of Asset</u>					
9. Issuer/Mortgagee #9					
9.01 Class 2 Unaffiliated Bond		0.010			
9.02 Class 3 Unaffiliated Bond		0.040			
9.03 Class 4 Unaffiliated Bond		0.090			
9.04 Class 5 Unaffiliated Bond		0.100			
9.05 Class 1 Unaffiliated Bond*		0.003			
9.06 Unaffiliated Preferred Stock Class 1		0.023			
9.07 Unaffiliated Preferred Stock Class 2		0.030			
9.08 Unaffiliated Preferred Stock Class 3		0.060			
9.09 Unaffiliated Preferred Stock Class 4		0.110			
9.10 Unaffiliated Preferred Stock Class 5		0.080			
9.11 Real Estate Foreclosed		0.150			
9.12 Real Estate Foreclosed Encumbrances		0.150			
9.13 Real Estate Investment		0.100			
9.14 Real Estate Investment Encumbrances		0.100			
9.15 Schedule BA Real Estate		0.100			
9.16 Farm mortgage in good standing		0.030			
9.17 Farm mortgage 90 days overdue		0.060			
9.18 Residential mortgage 90 days overdue (not ins or gtd)		0.010			
9.19 Commercial mortgage in good standing (not ins or gtd)		0.030			
9.20 Commercial mortgage 90 days overdue (not ins or gtd)		0.060			
9.21 Mortgages in foreclosure		0.100			
9.22 Sch BA Mortgages		0.100			
9.23 Collateral loans		0.050			
9.24 Write-ins		0.050			
9.25 Premium Notes		0.050			
9.99 Issuer Total		0.050			

\* Class 1 Bonds alone should not be included in the top ten (10) issuers.

Asset Risk (C-1)

Concentration Factor



(1)	(2)	(3)	(4)	(5)	(6)
<u>Type of Asset</u>	<u>Combined Value</u>	<u>RBS Factor</u>	<u>Additional RBS</u>	<u>Subsidiary RBS or RBC</u>	<u>Net RBS</u>
10. Issuer/Mortgagee #10					
10.01 Class 2 Unaffiliated Bond		0.010			
10.02 Class 3 Unaffiliated Bond		0.040			
10.03 Class 4 Unaffiliated Bond		0.090			
10.04 Class 5 Unaffiliated Bond		0.100			
10.05 Class 1 Unaffiliated Bond*		0.003			
10.06 Unaffiliated Preferred Stock Class 1		0.023			
10.07 Unaffiliated Preferred Stock Class 2		0.030			
10.08 Unaffiliated Preferred Stock Class 3		0.060			
10.09 Unaffiliated Preferred Stock Class 4		0.110			
10.10 Unaffiliated Preferred Stock Class 5		0.080			
10.11 Real Estate Foreclosed		0.150			
10.12 Real Estate Foreclosed Encumbrances		0.150			
10.13 Real Estate Investment		0.100			
10.14 Real Estate Investment Encumbrances		0.100			
10.15 Schedule BA Real Estate		0.100			
10.16 Farm mortgage in good standing		0.030			
10.17 Farm mortgage 90 days overdue		0.060			
10.18 Residential mortgage 90 days overdue (not ins or gtd)		0.010			
10.19 Commercial mortgage in good standing (not ins or gtd)		0.030			
10.20 Commercial mortgage 90 days overdue (not ins or gtd)		0.060			
10.21 Mortgages in foreclosure		0.100			
10.22 Sch BA Mortgages		0.100			
10.23 Collateral loans		0.050			
10.24 Write-ins		0.050			
10.25 Premium Notes		0.050			
10.99 Issuer Total		0.050			
<b>11.99 TOTAL OF ALL ISSUERS</b>					

\* Class 1 Bonds alone should not be included in the top ten (10) issuers.

-Asset Risk (C-1)

Concentration Factor

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<b>Asset Risk (C-1) - Miscellaneous Assets</b>		(1)	Factor	(2)
	Annual Statement Source	Statement Value		RBS Requirement
<b>Miscellaneous</b>				
(1) Cash & Short Term Investments	P2 L7 C4			
(2) Less Short Term Bonds	Sch DA Pt1 L4199999 C10			
(3) Less Exempt Money Market Funds	Sch DA Pt1 L4899999 C10			
(4) Less Class 1 Money Market Funds	Sch DA Pt1 L4999999 C10			
(5) Total Cash & Short Term Investments = L(1) - L(2) - L(3) - L(4)			0.003	
(6) Premium notes		N/A	0.050	N/A
(7) Collateral loans	P2 L6 C4		0.050	
(8) Aggregate write-ins for invested assets	P2 L9 C4			
(9) Less Derivative Instruments	AVRDC* L33 C1			
(10) Total Write-ins for Invested Assets = L(8) - L(9)			0.050	
(11) Total Miscellaneous excluding derivative instruments = L(5) + L(6) + L(7) + L(10)				
<b>Derivative Instruments</b>				
(12) Exchange Traded	AVRDC* L26 C1		0.003	
(13) Over the Counter Class 1	AVRDC* L27 C1		0.003	
(14) Over the Counter Class 2	AVRDC* L28 C1		0.010	
(15) Over the Counter Class 3	AVRDC* L29 C1		0.040	
(16) Over the Counter Class 4	AVRDC* L30 C1		0.090	
(17) Over the Counter Class 5	AVRDC* L31 C1		0.200	
(18) Over the Counter Class 6	AVRDC* L32 C1		0.300	
(19) Total Derivative Instruments = Sum of L(12) through L(18)				
(20) Total Miscellaneous Assets = L(11) + L(19)				

\* AVRDC refers to the "Asset Valuation Reserve - Default Component" page in the annual statement

**Asset Risk (C-1) Reinsurance**

	(1) Annual Statement Source	(1) Statement Value	(2) 100% Owned Affiliates	(3) RBS Subtotal	Factor	(4) RBS Requirement
<b>Reinsurance Ceded#</b>						
(1) Recoverable on paid losses (Life)	Sch S Pt1 L0399999 C6				0.005	
(2) Recoverable on paid losses (A&H)	Sch S Pt1 L0699999 C6				0.005	
(3) Recoverable on unpaid losses (Life)	Sch S Pt1 L0399999 C7				0.005	
(4) Recoverable on unpaid losses (A&H)	Sch S Pt1 L0699999 C7				0.005	
(5) Unearned premiums (A&H)	Sch S Pt2 L0399999 C8				0.005	
(6) Other reserve credit (A&H)	Sch S Pt2 L0399999 C9				0.005	
(7) Reserve credit (Life)	Sch S Pt3.A L0399999 C8a				0.005	
<b>Reinsurance Assumed Credit</b>			Other than 100% Owned Affiliates	<b>RBS Subtotal</b>	<b>Factor</b>	<b>RBS Requirement</b>
(8) Affiliate reserve credit (Life)	Sch S Pt3C: S1 L0199999 C8				-0.005	
(9) Affiliate reinsurance payable (Life)	S1 L0199999 C10				-0.005	
(10) Reinsurance assumed on unearned premium (A&H)	S2 L0199999 C8				-0.005	
(11) Reinsurance assumed other reserve credit (A&H)	S2 L0199999 C9				-0.005	
(12) Reinsurance assumed - Losses (A&H)	S2 L0199999 C10				-0.005	
<b>Reinsurance Payable Credit</b>						
(13) Reinsurance in unauthorized companies	P3 L22.2 C1				-0.005	
(14) Funds held in unauthorized reinsurers	P3 L22.3 C1				-0.005	
(15) Funds held in authorized reinsurers	P3 L23 C1 in part				-0.005	
(16) Other reinsurance recoverable or reserves "re-established" on Page 3	P3 L23 C1 in part				-0.005	
(17) Total Reinsurance = Sum of L(1) through L(16)						

# Statement values should be net of policy loans if policy loans are part of the reinsurance transaction.

Asset Risk (C-1)

Reinsurance

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**Asset Risk (C-1) - Off-Balance Sheet Items**

	(1) Statement Value	Factor	(2) RBS Requirement
<b>Annual Statement Source</b>			
<b>General Interrogatories Question:</b>			
<b>Noncontrolled assets</b>			
(1) Loaned to Others			
(2) Subject to reverse repurchase agreements			
(3) Subject to dollar repurchase agreements			
(4) Pledged as collateral			
(5) Placed under option agreements			
(6) Assets placed under option agreements			
(7) Letter stock or other securities restricted			
(8) Other			
(9) Total Noncontrolled Assets = Sum of L(1) through L(8)		0.010	
<b>Derivative Instruments</b>			
(10) Potential Exposure Asset Class 1		0.003	
(11) Potential Exposure Asset Class 2		0.010	
(12) Potential Exposure Asset Class 3		0.040	
(13) Potential Exposure Asset Class 4		0.090	
(14) Potential Exposure Asset Class 5		0.200	
(15) Potential Exposure Asset Class 6		0.300	
(16) Total Derivative Instrument Potential Exposure = Sum of L(10) through L(15)			
(17) Guarantees for affiliates		0.010	
(18) Contingent liabilities		0.010	
(19) Long-term leases		0.000	
(20) Total Off-Balance Sheet Items = L(9) + L(16) through L(19)			

Sch DB P/E S1 C5 in part  
 Sch DB P/E S1 C5 in part  
 Sch DB P/E S1 C5 in part  
 Sch DB P/E S1 C5 in part  
 Sch DB P/E S1 C5 in part  
 Sch DB P/E S1 C5 in part  
 Notes to Financial Statements 6e  
 Notes to Financial Statements 16a  
 Notes to Financial Statements 17

**Insurance Risk (C-2) - Health Premiums and Claim Reserves**

(1) Statement Value

(2) RBS Requirement

Annual Statement Source	Statement Value	Factor	RBS Requirement
<b>Medical Insurance Premium</b>			
<b>Individual Morbidity</b>			
(1) Usual & customary major medical & hospital benefits not anticipating rate increases		*	
(2) Medicare suppl, dental, and other limited benefits not anticipating rate increases		0.120	
(3) Hospal indemnity, AD&D, and other limited benefits not anticipating rate increases		0.080	
<b>Group and Credit Morbidity</b>			
(4) Usual & customary major med, hosp & dental	N/A	N/A	N/A
(5) Stop loss & minimum premium	N/A	0.250	N/A
(6) Medicare suppl, and other ltd benefits anticipating rate increases	N/A	0.120	N/A
(7) Hosp indemnity, AD&D, and other ltd benefits not anticipating rate increases	N/A	0.080	N/A
<b>Disability Income Premium</b>			
<b>Individual Morbidity</b>			
(8) Noncancellable disability income		*	
(9) Other disability income		*	
<b>Group and Credit Morbidity</b>			
(10) Disability Income	N/A	N/A	N/A
(11) Total Earned Premiums = Sum of L(1) through L(10) <i>L(1) C(1) should equal Sch H P1 L2 C1</i>			
<b>Health Claim Reserves</b>			
<b>Individual Claim Reserves</b>			
(12, Exh 9 Collectively Renewable	Exh 9 L15 C2		
(13) Exh 9 Non-Cancellable	Exh 9 L15 C3		
(14) Exh 9 Guaranteed Renewable	Exh 9 L15 C4		
(15) Non-Renewable for Stated Reasons Only	Exh 9 L15 C5		
(16) Other Accident Only	Exh 9 L15 C6		
(17) All Other Claim Reserves	Exh 9 L15 C7		
(18) Total Exhibit 9 Individual Claim Reserves = Sum of L(12) through L(17)		0.050	
<b>Group &amp; Credit Claim Reserves</b>			
(19) Exh 9 group & credit claim reserves	N/A	0.050	N/A
(20) Total Claim Reserves = L(18) + L(19) <i>L(20) C(1) should equal Exh 9 L15 C1</i>			
(21) Total Individual RBS = L(1) + L(2) + L(3) + L(8) + L(9) + L(18)			
(22) Total Group & Credit RBS = L(4) + L(5) + L(6) + L(7) + L(10) + L(19)			
(23) Total Health RBS = L(21) + L(22)			

\* Two tiered calculation shown in instructions for factors on L(1), L(4), L(8), L(9), L(10)

Insurance Risk (C-2)

Health Insurance

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<u>Insurance Risk (C-2) - Life Insurance</u>		(1)	(2)
	<u>Annual Statement Source</u>	<u>Statement Value</u>	<u>RBS Requirement</u>
<b>Individual &amp; Industrial Net Amount at Risk</b>			
(1) Ordinary Life In Force	EOLI* L21 C2 x 1,000		
(2) Less ordinary life reserves	Exh 8 L0399999 C4	N/A	
(3) Plus industrial life in force		N/A	
(4) Less industrial life reserves			
(5) Less separate accounts	SA Exh 6 L0199999 C3		
(6) Total Individual & Industrial Net Amount = L(1) + L(3) - L(2) - L(4) - L(5)			**
<b>Group &amp; Credit Net Amount at Risk</b>			
(7) Group life inforce		N/A	
(8) Less group FEGLI		N/A	
(9) Less group SGLI		N/A	
(10) Less group life reserves		N/A	
(11) Plus credit life in force		N/A	
(12) Less credit FEGLI		N/A	
(13) Less credit SGLI		N/A	
(14) Less credit life reserves		N/A	
(15) Total Group & Credit Risk Net Amount		N/A	N/A
(16) FEGLI/SGLI Life In Force	EOLI* L36 & L37 C2 & C4 x 1,000	N/A	N/A
(17) Total Life = L(6) + L(15) + L(16)			0.0005

\* EOLI stands for Exhibit of Life Insurance  
 \*\* Tiered calculation shown in instructions for factors on L(6) and L(15)

**Insurance Risk (C-2) Premium Stabilization Reserves**

	(1) Annual Statement Source	(1) Statement Value	Factor	(2) RBS Requirement
<b>Reported Premium Stabilization Reserves</b>				
<b>Group &amp; Credit Life and Health</b>				
(1) Stabilization reserves & experience rating refunds	P3 L10.3 C1 in part	N/A		
(2) Provision for experience rating refunds	P3 L11.2 C1	N/A		
(3) Reserve for credit rate credits	Exh 9 L5 C2	N/A		
(4) Reserve for group rate credits	Exh 9 L5 C3	N/A		
(5) Premium stabilization reserve credit	P3 L25 C1 in part	N/A		
(6) Total of Preliminary Premium Sstabilization Reserve Credit		N/A	0.500	N/A
<b>Group &amp; Credit Life and Health Risk-Based Surplus</b>				
(7) Life	Life Ins. L(15) C(2)	N/A		
(8) Health	Hlth Ins. L(22) C(2)	N/A		
(9) Maximum Risk-Based Capital = L(5) + L(6)		N/A		
(10) Final Premium Stabilization Reserve L(6) C(2), but not more than L(9) C(1)		N/A	-1.000	N/A
(11) Total Insurance Risk (C-2) = L(6) + L(10)		N/A		N/A

Interest Rate Risk (C-3)		(1)	Statement Value	Factor*	RBS Requirement
<b>(1) Adjustment for unqualified Sec 8 actuarial opinion (enter "Y" for yes, "N" for no)</b>					
<b>Low Risk Category</b>					
(2) Annuity reserve with market value adjustment (excluding unitized separate accounts and eligible experience rated pensions and separate accounts with guarantees)	Notes to Fin Stmts Item 10 in part (net of reinsurance) less P2 L5 in part				
(3) Annuity reserve not withdrawable (excluding structured settlements and eligible experience rated pensions and separate accounts with guarantees)	Notes to Fin Stmts Item 10 in part (net of reinsurance) less P2 L5 in part				
(4) Guaranteed Investment Contract (GIC) reserve within 1 year of maturity	Notes to Fin Stmts Item 10 in part (net of reinsurance) less P2 L5 in part Exh 8 L03999999 C4 P2 L5 in part				
(5) Life insurance reserves-net of reinsurance					
(6) Less life insurance reserves policy loans					
(7) Life Insurance reserves - net of reinsurance and policy loans = L(5)-L(6)					
(8) Total Low Risk = Sum of L(2) through L(7)					
<b>Medium Risk Category</b>					
(9) Annuity reserve with surrender charge	Notes to Fin Stmts Item 10 in part (net of reinsurance) less P2 L5 in part				
(10) Exh 10 reserve not included in Notes to Financial Statements Item 10#	Exh 10 L16 amis not incl elsewhere in (C-3) (net of reinsurance) less P2 L5 in part				
(11) Structured settlements	Notes to Fin Stmts Item 10 in part (net of reinsurance) less P2 L5 in part Exh 8 L0900004 C4				
(12) Additional actuarial reserves - asset/liability analysis					
(13) Total Medium Risk = Sum of L(6) through L(8a)					
<b>High Risk Category</b>					
(14) Annuity reserve w/little or no adjustment (excluding GIC's within 1 year of maturity)	Notes to Fin Stmts Item 10 in part (net of reinsurance) less P2 L5 in part				
(15) Total High Risk = L(14)					
(16) Total Interest Rate Risk = L(8) + L(13) + L(15)					

\* The diskette automatically recalculates the factor depending on the answer to L(1). The factor is decreased 1/3 if company submits an unqualified Sec 8 actuarial opinion under the revised Standard Valuation Law.

# Excluding any non-policyholder reserves (e.g. reserves that are not related to specific policies).



**Business Risk (C-4)**

**Premiums Subject to Guarantee Fund Assessment**

	(1) Annual Statement Source	(1) Statement Value	Factor	(2) RBS Requirement
(1) Life & Annuity Premiums	Sch T L58 C8			
(2) Less American Somoa Premiums	Sch T L52 C8			
(3) Less Guam Premiums	Sch T L53 C8			
(4) Less Puerto Rico Premiums	Sch T L54 C8			
(5) Less U.S. Virgin Islands Premiums	Sch T L55 C8			
(6) Less Canada Premiums	Sch T L56 C8			
(7) Less Other Alien Premiums	Sch T L57 C8		0.020	
(8) Total Life & Annuity Premiums = L(1) - the sum of L(2) through L(7)				
(9) Accident & Health Premiums.	Sch T L58 C9			
(10) Less American Somoa Premiums	Sch T L52 C9			
(11) Less Guam Premiums	Sch T L53 C9			
(12) Less Puerto Rico Premiums	Sch T L54 C9			
(13) Less U.S. Virgin Islands Premiums	Sch T L55 C9			
(14) Less Canada Premiums	Sch T L56 C9			
(15) Less Other Alien Premiums	Sch T L57 C9		0.005	
(16) Total Accident & Health Premiums = L(9) - the sum of L(10) through L(15)				
(17) Total Business Risk (C-4) = L(8) + L(16)				

Business Risk

Business Risk (C-4)

**Calculation of Authorized Control Level Risk-Based Surplus**

	Source	Risk-Based Surplus
<b>Asset Risk - Affiliated Amounts (C-0)</b>		
(1) Affiliated U.S. Property & Casualty Insurers Directly Owned	Subsidiary Summary L(1) C(2)	
(2) Affiliated U.S. Life Insurers Directly Owned	Subsidiary Summary L(2) C(2)	
(3) Affiliated U.S. Property & Casualty Insurers Indirectly Owned	Subsidiary Summary L(3) C(2)	
(4) Affiliated U.S. Life Insurers Indirectly Owned	Subsidiary Summary L(4) C(2)	
(5) Affiliated Alien Life Insurers - Canadian	Subsidiary Summary L(7) C(2)	
(6) Affiliated Alien Insurers - All Other	Subsidiary Summary L(8) C(2)	
(7) Off-Balance Sheet Items	P(11-1) L(20) C(2)	
(8) Total (C-0)	Sum of L(1) through L(7)	
<b>Asset Risk (C-1)</b>		
(9) Bonds after Size Factor	P(1-1) L(23) C(2)	
(10) Mortgages (including Past Due and Unpaid Taxes)	P(3-1) L(11) C(5)	
(11) Unaffiliated Preferred and Common Stocks	P(4-1) L(14) C(4)	
(12) Affiliate Preferred and Common Stocks - Investment Subsidiaries	Subsidiary Summary L(5) C(2)	
(13) Affiliate Preferred and Common Stocks - Holding Company in Excess of Indirect Subsidiaries	Subsidiary Summary L(6) C(2)	
(14) Affiliate Preferred and Common Stocks - Parent	Subsidiary Summary L(9) C(2)	
(15) Affiliate Preferred and Common Stocks - Property & Casualty Insurers not subject to Risk-Based Capital	Subsidiary Summary L(10) C(2)	
(16) Affiliate Preferred and Common Stocks - Life Insurers not subject to Risk-Based Capital	Subsidiary Summary L(11) C(2)	
(17) Affiliate Preferred and Common Stocks - All Other	Subsidiary Summary L(12) C(2)	
(18) Separate Accounts with Guarantees	P(5-1) L(4) C(2)	
(19) Surplus in Non-Guaranteed Separate Accounts	P(5-1) L(9) C(2)	
(20) Real Estate (Gross of Encumbrances)	P(6-1) L(13) C(2)	
(21) Other Long-Term Assets	P(7-1) L(31) C(4)	
(22) Concentration Factor	P(8-10) L(11,99) C(6)	
(23) Miscellaneous Assets	P(9-1) L(20) C(2)	
(24) Reinsurance	P(10-1) L(17) C(4)	
(25) Total (C-1)	Sum of L(9) through L(24)	

(26) Individual & Industrial Life Insurance	P(13-1) L(6) C(2)	
(27) Group & Credit Life Insurance & FEG/SGLI	N/A	
(28) Individual Health Insurance	P(12-1) L(21) C(2)	
(29) Group & Credit Health Insurance	N/A	
(30) Premium Stabilization Reserve Credit	N/A	
(31) Total (C-2)	Sum of L(26) through L(30)	
<b>Interest Rate Risk (C-3)</b>		
(32) Low Risk Category	P(15-1) L(8) C(2)	
(33) Medium Risk Category	P(15-1) L(13) C(2)	
(34) High Risk Category	P(15-1) L(15) C(2)	
(35) Total (C-3)	Sum of L(32) through L(34)	
<b>Business Risk (C-4)</b>		
(36) Total (C-4)	P(16-1) L(17) C(2)	
<b>Total Risk-Based Surplus After Covariance</b>		
(37) $(C-0) + (C-4) + \text{square root of } [((C-1) + (C-3))^2 + (C-2)^2]$		
<b>Authorized Control Level Risk-Based Surplus (after covariance adjustment)</b>		
(38) Total Risk-Based Surplus After Covariance x 50%		

Risk-Based Surplus

EXPEDITED ADOPTION

**EXPEDITED ADOPTION**

**Calculation of Total Adjusted Surplus**

	(1) Annual Statement Source	(1) Statement Value	(2) Factor	(2) Adjusted Surplus
<b>Society Amounts</b>				
(1) Capital and Surplus	P3 L31 C1		1.000	
(2) Asset Valuation Reserve	P3 L22.1 C1		1.000	
(3) Voluntary investment reserves**	P3 L23 C1 write-in in part		1.000	
(4) Dividend Liability	P3 L7.1 + L7.2 C1		0.500	
<b>Life Subsidiary Company Amounts***</b>				
(5) Asset Valuation Reserve	Subs stmt(s) P3 L24.1 C1*		1.000	
(6) Voluntary investment reserves**	Subs stmt(s) P3 L25 C1 write-in in part*		1.000	
(7) Dividend Liability	Subs stmt(s) P3 L7.1 + L7.2 C1*		0.500	
<b>Property and Casualty Amounts</b>				
(8) Non-tabular discount	Incl in subs stmt P3 L1 + L2 C1*		0.400	
(9) Total Adjusted Surplus	Sum of L(1) through L(8) less L(9)			

**Comparison of Total Adjusted Surplus to Risk-Based Surplus**

(10) Total Adjusted Surplus divided by Risk-Based Surplus	
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\* Multiply statement value by % of ownership  
 \*\* Through 1995. Voluntary reserves are those non-AVR reserves that are held to protect against the general risk of loss for a particular category. Involuntary reserves (held as an offset to a particular asset that is clearly a troubled asset) should not be included.  
 \*\*\* Including subsidiaries owned by holding companies.

**Summary for Subsidiary Controlled and Affiliated Investments**

Affiliate Types	(1)		(2)	
	Affil Code for Column (2)	RBS Requirement	Number of Companies	
(01) Directly Owned U.S. Property & Casualty Subsidiary	1			
(02) Directly Owned U.S. Life Subsidiary	2			
(03) Indirectly Owned U.S. Property & Casualty Subsidiary	3			
(04) Indirectly Owned U.S. Life Subsidiary	4			
(05) Investment Subsidiary	5			
(06) Holding Company in Excess of Indirect Subsidiary	6			
(07) Alien Insurance Subsidiary - Canadian Life	7			
(08) Alien Insurance Subsidiary - Other	8			
(09) Investment in Upstream Affiliate (Parent)	9			
(10) Other Affiliate - P/C Insurance not subject to RBC	10			
(11) Other Affiliate - Life Insurance not subject to RBC	11			
(12) Other Affiliate - Non-insurer	12			
(99) TOTAL				

**Controlled and Affiliated Investments for Crosschecking Statement Values to Schedule D Part 6 Section 1**

Sch D Pt 6 Sn 1 Type	Preferred Stock			Common Stock		
	(1)	(2)	(3)	(4)	(5)	(6)
(01) Parent	Annual Statement Preferred Stock	Total from LRBC Report	Difference C(1) - C(2)	Annual Statement Total Common Stock	Total from LRBC Report	Difference C(4) - C(5)
(02) US P/C Insurer	0199999			0999999		
(03) US Life Insurer	0299999			1099999		
(04) Alien Insurer	0399999			1199999		
(05) Non-insurer Which Controls Insurer	0499999			1299999		
(06) Investment Subsidiary	0599999			1399999		
(07) Other Affiliates	0699999			1499999		
(08) TOTAL	0799999			1599999		
	0899999			1699999		

Affiliated Preferred Stock Check Total to Sch D Pt2 S2

(09)	0499999	
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Affiliated Common Stock Check Total to Sch D Pt2 S2

	0499999	
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<u>Level of Action</u>	<u>Source</u>	<u>RBS Amount</u>
(1) Total Adjusted Surplus - Report Amount in Five-Year Historical Data	Trigger Points for Level of Regulatory Action:	
(2) Society Action Level = 200% of Authorized Control Level RBS	(3) Regulatory Action Level = 150% of Authorized Control Level RBS	
(4) Authorized Control Level RBS - Report Amount in Five-Year Historical Data	(5) Mandatory Control Level = 70% of Authorized Control Level RBS	
(6) Level of Action*:		

\* If Total Adjusted Capital on Line (1) exceeds Society Action Level Risk-Based Surplus on Line (2), "None" will be indicated. Otherwise, the appropriate level of action will be indicated.

**Trend Test**

**Criteria for Applying Trend Test**

- (1) Authorized Control Level RBS
- (2) Trend Test Safe Harbor
- (3) Total Adjusted Surplus

*Trend test applies only if Total Adjusted Surplus is less than the Trend Test Safe Harbor and the level of action is "None."*

**Trend Test Calculation (only if applicable)**

- (4) Current year margin
- (5) First prior year margin
- (6) Third prior year margin
- (7) Decrease in margin from first prior year
- (8) Decrease in margin from third prior year
- (9) Average decrease in last three years
- (10) Marginal difference
- (11) Total adjusted surplus less margin difference
- (12) Trend Test Trigger = 1.9 x ACL RBC

**Formula Reference**

- L(3) - L(1)
- From prior year RBC report
- From third prior year RBC report
- L(5) - L(4) (zero if negative)
- L(6) - L(4) (zero if negative)
- 1/3 of L(8)
- Greater of L(7) or L(9)
- L(3) - L(10)
- 1.9 \* L(1)

**Amount**

N/A
N/A
N/A
N/A
N/A
N/A
N/A
N/A
N/A
N/A

Level of Regulatory Action:

Trend Test

<u>Additional Information Required for the Sensitivity Tests</u>		<u>Source</u>	<u>Statement Value</u>
(1.2) Other Affiliates: Subsidiaries		Subs' LRBC LR028 Summary for Affiliate Investments L6 + L9 through L12 C1; P&C RBC PR003 Summary for Subs, Controlled and Affil. Investments for Cross-Checking Statement Values L5 + L7 C2 + C5	N/A
(2.2) Noncontrolled Assets: Subsidiaries		Subs' Annual Statement General Interrogatories #20(b) items i through viii	N/A
(3.2) Guarantees for Affiliates: Subs		Subs' Life Notes to Financial Statement #6e; P&C Notes to Financial Statements #5e	N/A
(4.2) Contingent Liabilities: Subsidiaries		Subs' Life Notes to Financial Statement #16a; P&C Notes to Financial Statements #9a	N/A
(5.2) Long-Term Leases: Subsidiaries		Subs' Life Notes to Financial Statement #17; P&C Notes to Financial Statements #10	N/A
(7.1a) Total Affil. Investments: Society		Society's Annual Statement 5-yr Historical Data L27 C1	N/A
(7.1b) Less Affil. Common Stock: Society		Society's Annual Statement 5-yr Historical Data L25 C2	N/A
(7.1c) Less Affil. Preferred Stock: Society		Society's Annual Statement 5-yr Historical Data L24 C3	N/A
(7.1d) Net Affiliated Investments: Society		L(7.1a) - L(7.1b) - L(7.1c)	N/A
(7.2) Affiliate Investments: Subsidiaries		Subs' Life Annual Statement 5-yr historical Data C1 L43 less L40 and L941); P&C Annual Statement 5-yr Historical Data C1 L39 less L36 and L37	N/A
(9.1) Surplus Notes: Society		Society's Annual Statement P3 L28 C1	N/A
(9.2) Surplus Notes: Subsidiaries		Subs' Life Annual Statement P3 L32 C1; P&C Annual Statement P3 L24A C1	N/A
(10.1a) Capital Paid In: Society		Society's Annual Statement	N/A
(10.1b) Surplus Paid In: Society		Society's Annual Statement	N/A
(10.1c) Contributions: Society		L(10.1a) + L(10.1b)	N/A
(10.2) Current Year's Capital Contributions: Subsidiaries		Subs' Life Annual Statement P4 L43a + L44a C1; P&C Annual Statement P4 L24a + 25a C1	N/A

<u>Sensitivity Tests - Authorized Control Level</u>		<u>(1)</u>		<u>(2)</u>		<u>(3)</u>		<u>(4)</u>	
<u>Sensitivity Tests Affecting Authorized Control Level</u>		<u>Statement Value</u>	<u>Additional Sensitivity Factor</u>	<u>Additional RBC</u>	<u>Control Level Before Test</u>	<u>Control Level After Test</u>			
<u>Other Affiliates:</u>									
(1.1) Society		Summary for Affil. Investments L12 C1	0.700						
(1.2) Subsidiaries		Additional Information Required L(1.2)	0.700						
(1.99) Total Other Affiliates		L(1.1) + L(1.2)	0.700						
<u>Noncontrolled Assets:</u>									
(2.1) Society		Off-Balance Sheet Items L9 C1	0.020						
(2.2) Subsidiaries		Additional Information Required L(2.2)	0.020						
(2.99) Total Noncontrolled Assets		L(2.1) + L(2.2)	0.020						



<b>Guarantees for Affiliates:</b>				
(3.1)	Society			0.020
(3.1)	Subsidiaries			0.020
(3.99)	Total Guarantees for Affiliates			0.020
<b>Contingent Liabilities:</b>				
(4.1)	Society			0.020
(4.2)	Subsidiaries			0.020
(4.99)	Total Contingent Liabilities			0.020
<b>Long-Term Leases:</b>				
(5.1)	Society			0.020
(5.2)	Subsidiaries			0.020
(5.99)	Total Long-Term Leases			0.020
<b>Affiliated Investments:<sup>*</sup></b>				
(7.1)	Society			0.100
(7.2)	Subsidiaries			0.100
(7.99)	Total Affiliated Investments			0.100
<b>Dividend Liability:</b>				
(8.1)	Society			-0.250
(8.2)	Subsidiaries			-0.250
(8.99)	Total Dividend Liability			-0.250
<b>Surplus Notes:</b>				
(9.1)	Society			-1.000
(9.2)	Subsidiaries			-1.000
(9.99)	Total Surplus Notes			-1.000
<b>Current Year Capital Contributions:</b>				
(10.1)	Society		N/A	N/A
(10.2)	Subsidiaries		N/A	N/A
(10.99)	Total Current Year Capital Contributions			-1.000
<b>Off-Balance Sheet Items L17 C1</b>				
Additional Information Required L(3.2)				
<b>Off-Balance Sheet Items L18 C1</b>				
Additional Information Required L(4.2)				
<b>Off-Balance Sheet Items L19 C1</b>				
Additional Information Required L(5.2)				
<b>Additional Information Required L(7.1d)</b>				
Additional Information Required L(7.2)				
<b>Calculation of Total Adj Surplus L(4) C(1)</b>				
Calc. of Total Adj Capital L(4) + L(5)C(1)				
<b>Additional Information Required L(9.1)</b>				
Additional Information Required L(9.2)				
<b>Additional Information Required L(10.1e)</b>				
Additional Information Required L(10.2)				

\* Excluding affiliated preferred and common stock.

**FRATERNAL PERFORMANCE RATIO**

**Actual Fraternal Expenditures over three year period**

- (1) 1994 Fraternal Expenditures
- (2) 1995 Fraternal Expenditures  
(Exh 1 P12 L30 C6 + Exh 5 L10 C4 + Exh 6 L6 C4)
- (3) 1996 Fraternal Expenditures  
(Exh 1 P12 L30 C7 + Exh 5 L10 C5 + Exh 6 L6 C5)
- (4) Total Expenditures = L(1) + L(2) + L(3)

**Adjustment Factor**

- (5) 1996 Fraternal Events #
- (6) 1996 Fraternal Acts #
- (7) 1996 Number of Members
- (8)  $[(L(5) * 5) + L(6)] / \text{Line (7)}$
- If L(8) is less than 1.0, L(9) = 1.0
- If L(8) is between 1.0 and 2.0, L(9) = L(8)
- If L(8) is greater than 2.0, L(9) = 2.0

- (10) Adjusted Fraternal Expenditures = L(4) \* L(9)

# Events are a gathering of local lodge members for a specific purpose on behalf of the society, such as business meetings, social functions, sports events, classes, special ceremonies, fund raisers, etc.

#\* Acts are volunteer services performed by members on behalf of the society for members and non-members, such as for museums, libraries, PTA, hospitals, crisis centers, pollution control, environmental program, scout groups, etc.

**15% of increase in society surplus over the three year period, plus**

**15% of fraternal expenditures over the three year period**

- (11) Statutory Surplus Dec 31 1996 - P3 L31 C1
- (12) Statutory Surplus Dec 31 1993 - P3 L28 C1
- (13)  $L(11) - L(12) + L(4)$ , but not less than 0
- (14) Total = L(13) \* 0.15

**2% of life and health premiums over the three year period**

**Life Premiums excluding dividends**

- (15) 1994 ann stmt, P6 L1 C2 - Exh 7 L1+L2+L3 C1
- (16) 1995 ann stmt, P6 L1 C2 - Exh 7 L1+L2+L3 C1
- (17) 1996 ann stmt, P6 L1 C2 - Exh 7 L1+L2+L3 C1

**Health Premiums**

- (18) 1994 ann stmt, P6 L1 C5
- (19) 1995 ann stmt, P6 L1 C5
- (20) 1996 ann stmt, P6 L1 C5
- (21) Total = Sum of L(15) through L(20)
- (22) Total Life & Health Premiums = L(21) \* 0.02

**0.5% of Annuity Considerations over the three year period**

**Annuity Considerations excluding dividends**

- (23) 1994 ann stmt, P6 L1 C3 - Exh 7 L4 C1 + C2
- (24) 1995 ann stmt, P6 L1 C3 - Exh 7 L4 C1 + C2
- (25) 1996 ann stmt, P6 L1 C3 - Exh 7 L4 C1 + C2
- (26) Total = Sum of L(23) through L(25)
- (27) Annuity Considerations Total = L(26) \* 0.005

**0.625% of the sum of the beginning period RBS + the end of period RBS**

- (28) Risk-Based Surplus, December 31, 1993 \*
- (29) Risk-Based Surplus, December 31, 1996, P(17-2) L(37)
- (30) Total = L(28) + L(29)
- (31) RBS Total = L(30) \* 0.00625

- (32) Minimum Standard = L(14) + L(22) + L(27) + L(31)

(33) Fraternal Ratio =  $L(10) / L(32)$

\* If your society participated in the 1993 program, use the information from that year. If your society did not participate, please complete the '93 Annual Statement RBS Section of the worksheet to determine this value.

**1993 RBS CALCULATION FORM**

The following formula was developed to calculate the 1993 Risk-Based Surplus needed to complete the 1996 Fraternal Standard Calculation: 1993 total adjusted surplus divided by the 1996 total adjusted surplus, multiplied by the 1996 risk-based surplus. (Total adjusted surplus equals statutory surplus asset variation reserve plus voluntary investment reserves plus 1/2 dividend liability.)

Total Adjusted Surplus	1993 Annual Statement Source	Statement Value	Factor	Adjusted Surplus
(A) Capital and Surplus	P3 L28 C1		1.000	
(B) Asset Valuation Reserve	P3 L22.1 C1		1.000	
(C) Voluntary Investment Reserve	P3 L23 C1 write-in, in part#		1.000	
(D) Dividend Liability	P3 L7.1 + L7.2 C1		0.500	
(E) 1993 Total Adjusted Surplus	Sum of L(A) through L(B)			
(F) 1996 Total Adjusted Surplus	P(18-1) L(9)			
(G) 1996 RBS	P(17-2) L(37)			
(H) 1993 RBS	L(E) / L(F) * L(G)			

# Include voluntary investment reserves for default losses on real estate and mortgages.

**BONDS**

Page (1-1)

**Basis of Factors**

Bond factors are based on cash flow modeling using historically adjusted default rates for each bond category. For each of 2,000 trials, annual economic conditions were generated for the ten-year modeling period. Each bond of a 400-bond portfolio was annually tested for default (based on a "roll of the dice") where the default probability varies by rating category and that year's economic environment. When a default takes place, the actual loss considers the expected principal loss by category, the time until the sale actually occurs and the assumed tax consequences.

Actual surplus needs are reduced by incorporating anticipated annual contributions to the Asset Valuation Reserve (AVR) as offsetting cash flow. Required surplus for a given trial is calculated as the amount of initial surplus funds needed so that the accumulation with interest of this initial amount and subsequent cash flows will not become negative at any point throughout the modeling period. The factors chosen for the proposed formula produce a level of surplus at least as much as needed in 92 percent of the trials by category and a 96 percent level for the entire bond portfolio.

The factor for class 6 bonds recognizes that the statement value of these bonds reflects a loss of value default by being marked to market.

**Specific Instructions**

**Line (18)**

Class 1 bonds (highest quality) issued by a U.S. Government Agency that are not backed by the full faith and credit of the U.S. Government should be reported on this line. The loan-backed securities of the Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC) would be examples of the securities reported on this line. Exempt obligations are not to be included. Line (18) should not be larger than the sum of Line (2) and Line (10).

**Line (20)**

Bonds should be aggregated by issuer (the first six digits of the CUSIP number can be used). Exempt U.S. Government bonds and bonds reported on Line (18) are not counted in determining the size factor. The RBC for those bonds will not be included in the base to which the size factor is applied. If this field is left blank, the maximum size factor adjustment of 2.5 is used.

**Line (21)**

The size factor reflects the higher risk of a bond portfolio that contains relatively fewer bonds. The overall factor decreases as the portfolio size increases. Portfolios with more than 1,300 issuers will receive a discount. The size factor is based on the following formula.

	(a)	(b)
Line (21)	Source	Weighted Issuers
First 50	Company Records	2.5
Next 50	Company Records	1.3
Next 300	Company Records	1.0
Next 400	Company Records	0.9
Total Number of Issuers from Line (20)		
Total Weighted Issuers		
Size Factor = Total Weighted Issuers divided by Total Number of Issuers		

**Mortgage Experience Adjustment**

Page (2-1)

**Basis of Factors**

In the absence of a quality rating system, the formula includes a moving eight quarter average ratio of society to industry experience with minimum and maximum limits. This experience adjustment is defined and calculated to be consistent with the adjustment that is used to calculate the Asset Valuation Reserve. The Experience Adjustment Factor (EAF) is the moving average of the society's delinquency and foreclosure rate divided by the moving average of the industry.

The experience adjustment is defined and calculated to be consistent with the adjustment that is used to calculate the Asset Valuation Reserve. An average ratio of the eight preceding quarters is then calculated. Refer to the Assets Valuation Reserve instructions found in the Fraternal Annual Statement Instructions for a detailed description of the calculation.

**Specific Instructions****Line (1)**

Rapidly growing or immature mortgage loan portfolios are unlikely to have developed any meaningful delinquency experience. Until a society has five years of applicable experience, the adjustment factor is 100%.

**Line (2) through Line (10)**

Refer to previous annual and quarterly statements when calculating the delinquency ratio. Societies not required to file a quarterly statement will calculate the experience Adjustment Factor as if Quarterly Statements had been prepared.

**Line (12)**

The industry average rate is calculated by the NAIC and represents the eight quarter average ratio compiled using all Life companies.

**Line (13)**

The mortgage experience adjustment factor is calculated by taking the ratio of average society delinquency to average industry delinquency, with an upper and lower limit. For mortgages in-good-standing, the lower limit is 50 percent and the upper limit is 300 percent. For societies with less than five years experience, the limit is set at 100 percent.

**Column (4)**

Amounts reported in this column should be year-to-date balances, not the activity for the current quarter.

**Basis of Factors****Mortgages**

Page (3-1)

The factor for farm mortgages is based on models and surveys of representative Life insurance companies. The risk is considered to be between class 2 and class 3 bonds, so it was given a factor of 3 percent. The 0.1 percent insured or guaranteed mortgages factor represents approximately 30-60 days interest lost due to possible delay in recovery on default. The residential mortgages factor of 0.5 percent reflects a significantly lower risk than commercial mortgages. Residential mortgages are defined as dwellings of 1-4 units. The commercial mortgages factor is based on models and surveys of representative Life insurance companies. The risk is considered to be between class 2 and class 3 bonds, so it was given a factor of 3 percent. Factors for all mortgages that are 90 days or more overdue are set at twice the level as for those in-good-standing to reflect the increased probability of default losses. Mortgages in process of foreclosure are considered as risky as class 5 bonds and are assigned the same factor of 20 percent. The factor for due and unpaid taxes on overdue mortgages and mortgages in foreclosure is 100 percent.

Page 2

**Specific Instructions****Book Value Column**

Insured or guaranteed mortgages should be reported separately from residential and commercial mortgages. Insured or guaranteed loans include only those mortgage loans insured or guaranteed by the Federal Housing Administration, under the National Housing Act (Canada), or by the Veterans Administration (exclusive of any portion insured by F.H.A.). Guarantees by another company (affiliate or unaffiliated) are not to be made. The risk-based surplus of total mortgages before the experience adjustment is multiplied by the mortgages experience adjustment factor. Risk-based surplus for due and unpaid taxes is then added to the RBS for total mortgages to arrive at the final RBS for mortgages.

**Non-Admitted Adjustment Column**

Societies are permitted to reduce the statement value of mortgages loans reported in Schedule B by any non-admitted amounts. Non-admitted amounts should be adjusted in this section only if the values in Schedule B have not been previously adjusted. If the book value of mortgages loans reported in Schedule B have not already been adjusted for non-admitted amounts, then Line (11) Column (2) should equal Annual Statement Page 2 Column 3 Lines 3.1 plus 3.2.

**Involuntary Reserve Adjustment Column**

Societies are permitted to reduce the statement value of mortgage loans reported in Schedule B by any involuntary reserves. Involuntary reserves are non-AVR reserves held for a particular troubled mortgage loan and are reported in the Annual Statement Page 3 Line 25.

**MEA Factor Column**

This factor is calculated on the Mortgage Experience Adjustment page. The factor for mortgage loans in-good-standing is calculated on Line (13) of Page (2-1), and the factor for mortgage loans 90-days overdue is calculated on Line (14) of Page (2-1).

**Unaffiliated Preferred and Common Stocks**

Page (4-1)

**Basis of Factors****Unaffiliated Preferred Stock**

Experience data to develop preferred stock factors is not readily available; however, it is believed that preferred stocks are somewhat more likely to default than bonds and that the loss on default would be somewhat higher than that experienced on bonds. Formula factors are equal to bond factors plus 2 percent, but not more than 30 percent. This is consistent with the approach adopted for preferred stock factors for AVR purposes.

**Unaffiliated Common Stock**

Non-government money market funds are more like cash than common stock, so it is appropriate to use the same factor as for cash. Federal Home Loan Bank Stock has characteristics more like a fixed income instrument rather than common stock, so a 2.3 percent factor was chosen. The factor for other unaffiliated common stock is based on studies conducted at two large Life insurance companies. Both of these studies indicate that a 30 percent factor is needed to provide surplus to cover approximately 95 percent of the greatest losses in common stock value over a two-year future period. This factor assumes surplus losses are unrealized and not subject to favorable tax treatment at the time loss in market value occurs.

**Detail Instructions****Line (1) through Line (6)**

Column (1) amounts are from the Asset Valuation Reserve Default Component Column 1 Line 10 through Line 15 of the Annual Statement. Since affiliated amounts are included in the Asset Valuation Reserve Default Component, these amounts should be deducted in Column (2).

**Line (10)**

Amounts should reflect only those money market mutual funds reported on Schedule D Part 2 Section 2. Money market funds qualifying for Schedule DA treatment or reported on Schedule D Part 1 should not be included on this line. Refer to the NAIC's Purposes and Procedures of the Securities Valuation Office for a discussion on those money market funds that qualify for Schedule DA treatment.

**Separate Accounts**

Page (5-1)

**Basis of Factors**

**Separate Accounts With Guarantees**

Guaranteed separate accounts are divided into two categories, indexed and non-indexed. Indexed separate accounts are invested to mirror an established securities index that is the basis of the guarantee. Consequently, indexed separate accounts are relatively low risk; the risk-based surplus factor is the same as class 1 bonds.

Non-indexed separate accounts with guarantees are subject to the risk of the underlying assets, so 100 percent of the calculated risk-based surplus of these accounts is appropriate. For New York Regulation 128 business, there is an offset to (C-1) risk equal to the reduction in the market value of the separate account assets as determined for paragraphs 97.5(b)(2) and 97.5(c) of Regulation 128 commonly referred to as the "haircut". Under Regulation 128, asset market values are reduced by specified percentage amounts, varying by type of asset, and then compared with the value of the guaranteed benefits. If the reduced market value of the assets (i.e., market value less the "haircut") is less than the value of the benefits, the insurer must establish reserves to cover the deficit. Note that if a separate account with guarantees is not subject to Regulation 128, but complies with the Regulation 128 standard voluntarily, then this offset can be taken.

**Surplus in Non-Guaranteed Separate Accounts**

There are a variety of reasons why surplus appears in non-guaranteed separate accounts, e.g., remaining seed money, or as a margin for certain risks assumed by the fraternal society. The risk-based surplus for such separate accounts is 10 percent of surplus held in such separate accounts plus 10 percent of the Commissioners Reserve Valuation Method (CRVM) or the Commissioners Annuity Reserve Valuation Method (CARVM) expense allowance transfers if the current surrender charge is based on the fund balance. If the current surrender charge is based on fund contributions, then the risk-based surplus charge for the expense allowance component is 2 percent of the CRVM or CARVM expense allowance for each contract for which the fund balance exceeds the sum of the premiums less withdrawals, 10 percent otherwise.

**Specific Instructions**

**Line (2) and Line (3)**

The amounts to be reported for non-indexed Separate Accounts with guarantees are calculated manually then entered on the worksheet. Risk-based surplus for these amounts should be calculated using the fraternal society formula; however, the RBS calculation for non-indexed separate accounts should not include the size factor for bonds, the experience adjustment for mortgages or the concentration factor.

**Line (7)**

Report the CRVM or CARVM expense allowance transfers where the current surrender charge is based on the fund balance or all other expense allowance transfers. The amount should be entered as a positive value.

**Line (8)**

Report the CRVM or CARVM expense allowance transfers where the current surrender charge is based on fund contributions for each contract for which the fund balance exceeds the sum of the premiums less withdrawals. The amount should be entered as a positive value.

**Real Estate**

Page (6-1)

**Basis of Factors**

Societies that have developed their own risk-based surplus factors have used a range of factors from 5 percent to 20 percent. One study indicated real estate volatility is about 60 percent that of common stock, suggesting a factor in the range of 18 percent. Assuming some tax effect for losses, a factor of 10 percent was chosen. Foreclosed real estate would carry a somewhat higher risk at 15 percent. The foreclosed real estate factor is lower than the factor for mortgages in foreclosure (20 percent) because the NAIC's Annual Statement Instructions require that mortgages in foreclosure be written down when they are moved to the foreclosed real estate category. Since a surplus reduction has already been taken, the factor is lower.

Encumbrances have been included in the real estate base since the value of the property subject to loss would include encumbrances.

**Specific Instructions**

**Line (1) through Line (12)**

Amounts reported for society occupied, foreclosed and investment real estate should equal the amount reported on Page 2 Column 4 of the Annual Statement, as non-admitted amount have already been taken into consideration. These amounts should be further reduced for any involuntary real estate reserves held as an offset to a particular asset that is clearly a troubled asset. Deductions for amounts guaranteed by another society (affiliated or unaffiliated) are not to be made.

**Other Long-Term Assets**

Page (7-1)

**Basis of Factors**

Recognizing the diverse nature of Schedule BA assets, the RBS is calculated by assigning different risk factors according to the different type of assets. Assets with underlying characteristics of bonds and preferred stocks rated by the NAIC Securities Valuation Office (SVO) have different factors according to the SVO assigned classification. Unrated fixed income securities will be treated the same as other Schedule BA assets and assessed a 30 percent charge. Rated surplus notes have the same factors applied as Schedule BA assets with the characteristics of preferred stock. Where it is not possible to determine the RBS classification of an asset, a 30 percent factor is applied.

**Asset Concentration Factor**

Pages (8-1) through (8-10)

**Basis of Factors**

The purpose of the concentration factor is to reflect the additional risk of high concentrations in single exposures (represented by an individual issuer of a security or a holder of a mortgage, etc.). The concentration factor doubles the risk-based surplus factor (with a maximum of 30 percent) of the ten largest asset exposures excluding various low risk categories or categories that already have a 30 percent factor. Since the risk-based surplus of the assets included in the concentration factor has already been counted once in the basic formula, this factor itself only serves to add in the additional risk-based surplus required. The calculation is completed on a consolidated basis; however, the concentration factor is reduced by amounts already included in the concentration factors of subsidiaries to avoid double counting.



### Specific Instructions

The ten largest asset exposures should be developed by consolidating the assets of the parent with the assets of the society's insurance and investment subsidiaries. The concentration factor component on any asset already reflected in the subsidiary's RBS for the concentration factor should be deducted from Column (F). This consolidation process effects higher tiered societies only. Societies on the lowest tier of the organizational chart will prepare the asset concentration on a "stand alone" basis.

The ten largest exposures should exclude the following: affiliated and non-affiliated common stock, affiliated preferred stock, home office properties, policy loans, bonds for which AVR and RBS are zero, class 1 and class 6 bonds and Schedule BA assets with a 30 percent factor and any other asset categories with RBS factors less than 1 percent (this includes residential mortgages in-good-standing, insured or guaranteed mortgages, and cash and short term investments).

Assets should be aggregated by issuer before determining the ten largest exposures. Aggregations should be done separately for bonds and preferred stock (by the first six digits of the CUSIP number), mortgages and real estate. Securities held within Schedule BA partnerships should be aggregated by issuer as if the securities are held directly. Likewise, where joint venture real estate is mortgaged by the insurer, both the mortgage and the joint venture real estate should be considered as part of a single exposure. Tenant exposure is not included. For bonds, aggregations should be done first for classes 2 through 5. After the ten largest issuer exposures are chosen, any class 1 bonds from any of these issuers should be included before doubling the risk-based surplus. For some societies, following the above steps may generate less than ten "issuer" exposures. These societies should list all available exposures.

The statement value of each asset is listed in Column (2), and the subsidiaries' RBS or RBC is listed in Column (5).

The RBS factor will correspond to the risk-based surplus category of the asset reported previously in the formula before application of the size factor for bonds or the experience factor for mortgages. The diskette program automatically allows for an overall 30 percent RBS cap.

### Miscellaneous Assets

Page (9-1)

### Basis of Factors

The factor for cash is 0.3 percent. It is recognized that there is a small risk related to possible insolvency of the bank where cash deposits are held. The 0.3 percent factor, equivalent to a class 1 bond, reflects the short term nature of the risk.

The short term investments to be included here are those that are not reflected elsewhere in the formula. Commercial paper, negotiable certificates of deposit, repurchase agreements, collateralized mortgage obligations (CMOs), mortgage participation certificates (MPCs), interest only and principal only certificates (IOs and POs), and equipment trust certificates should be included in appropriate bond classifications (class 1 through class 6) on the Bonds page of this report and should be excluded from short-term investments. The 0.3 percent factor is equal to the factor for cash.

Premiums notes do not apply to fraternal benefit societies, but has been retained for information only. Collateral loans and write-ins for invested assets are generally a small proportion of total portfolio value. A factor of 5 percent is consistent with other risk-based surplus formulas studied by the working group.

Derivative instrument statement value exposure net of collateral, for each SVO Rating class, is subject to the Bond RBS factor for that category to reflect the amount held on the balance sheet exposed to loss upon default of the Over the Counter (OTC) counterparty or exchange.

**Reinsurance**

Page (10-1)

**Basis of Factors**

There is a risk associated with recoverability of amounts from reinsurers. The risk is deemed comparable to that represented by bonds between risk class 1 and class 2, and is assigned a factor of 0.5 percent. To avoid an overstatement of risk-based surplus the formula gives a 0.5 percent credit for reinsurance with non-authorized societies, for reinsurance among affiliated societies, for reinsurance with funds withheld, and for reinsurance involving policy loans.

**Specific Instructions****Lines (1) through (7)**

The first seven components of the reinsurance formula are charged against all reinsurance recoverables and ceded reserve credits as reported in Schedule S.

**Lines (8) through (12)**

A negative 0.5 percent factor is applied to these five components. These adjustments should only be applied to business assumed from 100 percent owned subsidiaries of the society. The subsidiary's RBS is part of the individual society's RBS and sister affiliate reinsurers should not be included. In addition, no adjustments should be made where an adjustment has already been taken in the reestablished liability components above. This would be the case if the subsidiary reinsurer was unauthorized or where its treaty with the society involved funds held.

**Lines (13) through (16)**

The last four components are Page 3 liabilities (including Line 22.2 - "Reinsurance in Unauthorized Societies" and Line 22.3 - "Funds Held under Reinsurance Treaties with Unauthorized Reinsurers"). A factor of negative 0.5 percent is applied. This considers that these liabilities reported on Page 3 have been reestablished in the balance sheet offsetting the reinsurance ceded reserved credits taken elsewhere.

**Off-Balance Sheet Items**

Page (11-1)

**Basis of Factors**

The potential for risk exists in off-balance sheet items. For items other than derivative instruments a 1 percent was chosen on a judgment basis. The 1 percent factor will differentiate between the societies that have small and large exposures to this risk. Since there is no firm actuarial basis for assigning the 1 percent factor to these risks, off-balance sheet items are included in the sensitivity analysis using a factor of 3 percent, and leases are added as an additional off-balance sheet item.

For derivative instruments, the statement value exposure net of collateral (the balance sheet exposure) is included under miscellaneous (C-1) risks. Because collars, swaps, forwards and futures can have statement values that are positive, zero or negative, the potential exposure to default by the counterparty or exchange for these instruments cannot be measured by the statement values. Schedule DB therefore includes a calculation of the potential exposure that is based on the March 1987 research paper "Potential Credit Exposure on Interest Rate and Foreign Exchange Rate Related Instruments", supporting the 1988 Bank of International Settlements framework for banks. The off-balance sheet exposure (new to Schedule DB Part E Section 1 beginning with the 1997 Annual Statement) will measure potential exposure for risk-based surplus purposes. The factors applied to the derivatives off-balance sheet exposure are the same as those applied to bonds.

**Specific Instructions**

**Lines (1) through (8)**  
Noncontrolled assets are the amount of all assets not exclusively under the control of the society, or assets that have been sold or transferred subject to a put-option contract currently in force.

**Line (17)**  
Guarantees for affiliates include guarantees for the benefit of an affiliate that result in a material\* contingent exposure of the society's assets to liability.

**Line (19)**  
The exposure amount for long-term leases is the annual rental amount of all leases which could have a material\* financial effect. If the rent expense is shared with affiliates, it should be allocated by company.

\* The definition of "material" exposure or financial effect is the same as for Annual Statement disclosure requirements.

**Health Premiums and Health Claim Reserves**

Page (12-1)

**Basis of Factors**

Risk-based surplus factors for Health insurance are applied to medical and disability income premiums and Exhibit 9 claim reserves with an offset for premium stabilization reserves. Premiums for Long-Term Care Insurance should be included for purposes of the RBS calculation with the line of business with which it is currently reported. Group and Credit Morbidity does not apply to fraternal societies, but references have been retained for information only.

**Medical Insurance Premium**

The business is subdivided by product into three categories for individual coverages depending on the risk related to volatility of claims. The factors were developed from a model that determines the minimum amount of surplus needed to protect the society against a worst-case scenario for each type of coverage. The results of the model were then translated into either a uniform percentage or a two-tier formula to be applied to premium. The two-tier formula reflects the decreased risk of a larger in force block.

**Disability Income Premium**

The individual disability income factors were based on models of the disability risk completed by several societies with significant experience in this line. The pricing risk consists principally of the delayed reaction to increases in incidence of new claims and to the lengthening of claims from slower recoveries than assumed.

**Claim Reserves**

Additional risk-based surplus of 5 percent for individual claim reserves is required to recognize the risk of the level of recoveries and other claim terminations falling below that assumed in the development of claim reserves.

**Specific Instructions**

The total of all earned premium categories Health Premiums Line (11) Column (1), should equal the total in Schedule H Part 1 Line 2 Column 1 of the Annual Statement. Earned premium for each of these coverages should be from underlying society records. For some of the coverages, two-tier formulas apply.



	Annual Statement Source	(1) Statement Value	(2) Factor RBS Requirement
<u>Medical Insurance Premium</u>			
Line (1) Usual and Customary Major Medical and Hospital	Earned Premium (Sch H Pt1 L2 in part) first 25 million		X 0.250 =
	Earned Premium (Sch H Pt1 L2 in part) over 25 million		X 0.150 =
	Total (Amounts reported on Page (12-1) Line (11))		
<u>Disability Income Premium</u>			
Line (8) Noncancellable Disability Income	Earned Premium (Sch H P1 L2 in part) first 50 million		X 0.350 =
	Earned Premium (Sch H P1 L2 in part) over 50 million		X 0.150 =
	Total (Amounts reported on Page (12-1) Line (8))		
Line (9) Other Disability Income	Earned Premium (Sch H P1 L2 in part) first 50 million		X 0.250 =
	Earned Premium (Sch H P1 L2 in part) over 50 million		X 0.150 =
	Total (Amounts reported on Page (12-1) Line (9))		

**Life Insurance**  
Page (13-1)

**Basis of Factors**

The factors chosen represent surplus needs to provide for excess claims over expected, both from random fluctuations and from inaccurate pricing for future levels of claims. For a large number of trials, each insured either lives or dies based on a "roll of the dice" reflecting the probability of death from both normal and excess claims. The present value of the claims generated by this process, less expected claims, will be the amount of surplus need under that trial. The factors chosen under the formula produce a level of surplus at least as much as needed in 95 percent of the trials.

The model was developed for portfolios of 10,000, 100,000, and one million lives. It was found that the surplus needs decreased with larger portfolios, consistent with the law of large numbers.

Net amount of risk was chosen as a base because expected claims are difficult to calculate on a consistent basis from society to society.

**Specific Instructions**

Annual Statement reference is for the total net amount at risk for the category. Industrial life in force and life reserves and the group and credit net amount at risk do not apply to fraternal societies, but reference is retained for information only. The calculation is as follows:

Line (6)	(1) Statement Value	Factor	(2) RBS Requirement
Individual & Industrial			
First 500 Million		X 0.00150 =	
Next 4,500 Million		X 0.00100 =	
Next 20,000 Million		X 0.00075 =	
Over 25,000 Million		X 0.00060 =	
Total Individual and Industrial Net Amount at Risk			

All amounts should be entered as required.

## Premium Stabilization Reserves for Group and Credit Insurance

Page (14-1)

This section does not apply to fraternal benefit societies. It is included here for information only.

### Interest Rate Risk

Page (15-1)

#### Basis of Factors

The interest rate risk is the risk of losses due to changes in interest rate levels. The factors chosen represent the surplus necessary to provide for a lack of synchronization of asset and liability cash flows.

The impact of interest rate changes will be greatest on those products where the guarantees are most in favor of the policyholder and where the policyholder is most likely to be responsive to changes in interest rates. Therefore, risk categories vary by withdrawal provision. Factors for each risk category were developed based on the assumption of well matched asset and liability duration's. A loading of 50 percent was then added to represent extra risk of less well matched portfolios. Societies must submit an unqualified Section 8 opinion under the revised Standard Valuation Law to be eligible for a credit of one third of the RBS otherwise needed.

#### Low Risk Category

The basic risk-based surplus developed for annuities in the low risk category was based on an assumed asset/liability duration mismatch of 0.125 (i.e., a well matched portfolio). This durational gap was combined with a possible 4 percent one year swing in interest rates (the maximum historical interest rate swing 95 percent of the time) to produce a factor of 0.0050. In addition to the 50 percent loading discussed above, the risk-based surplus factor is 0.0075. With the introduction of variable policy loan interest rates, life insurance has also assumed a low risk potential and is included in the calculation.

#### Medium and High Risk Category

The factors for the medium and high risk categories were determined by measuring the value of the additional risk from the more discretionary withdrawal provisions based on assumptions of policyholder behavior and 1,000 random interest rate scenarios. Supplementary contracts not involving life contingencies (SCNI) and dividend accumulations are included in the medium risk category due to the historical tendency of these policyholders to be relatively insensitive to interest rate changes.

#### Specific Instructions

The calculation for risk-based surplus should not include unitized separate accounts without guarantees even though they may be included in Item 10 of the Notes to Financial Statements. Separate accounts with guarantees should be included, except for certain guaranteed separate accounts as defined below. Experience rated pension contracts defined below should be excluded from "annuity reserves with market value adjustment" and "annuity reserves not withdrawable." All amounts should be reported net of reinsurance net of policy loans.

Experience rated group and individual pension business that meets all of the following four conditions is excluded from (C-3) risk:

- (a) General account funded;
- (b) Reserve interest rate is carried at no greater than 4 percent and/or fund long term interest guarantee (in excess of a year) does not exceed 4 percent;
- (c) Experience rating mechanism is immediate participation; retroactive credits, or other technique other than participating dividends; and,
- (d) Either is not subject to discretionary withdrawal or is subject to market value adjustment, but only if the contractually defined lump sum market value adjustment reflects portfolio experience as well as current interest rates and is expected to pass both credit risk and rate risk to the policyholder at withdrawal. (A lump

Page 10

sum settlement based only on changes in prevailing rates does not meet this test. Book value cash out options meet this test as long as the present value of payments using U.S. Treasury spot rates is less than or equal to the lump sum market value on the valuation date and the policyholder does not have an option to change the payment period once payments begin.)

Separate account business with guarantees that satisfies both conditions (b) and (d) above is excluded from (C-3) risk.

Structured settlements are reported in the medium risk category and consist of either immediate or deferred payout annuities that are purchased from damages received from personal injuries or sickness. The payments under these contracts should be excludable from the annuitants' gross income for tax purposes under Sec 104(a)(2) of the Internal Revenue Code.

The total of all Annual Statement reserves representing exposure to (C-3) risk on Line (16) should equal the following:

Exh 8 Sec A L0199999 C2 - P2 L5 C4 + Exh 8 Sec B L0299999 C2 + Exh 8 Sec C L0399999 C2 + Exh 10 L19 C1 + Separate Accounts P3 L1 through L5 C1 (funds in unitized sep. accts with no underlying guaranteed min. return, sep. accts with guarantees less than 4%, and experience rated pension res/liab should be deducted from this amount) - Non policyholder reserves reported on Exh 10.

### Business Risk

Page (16-1)

#### Basis of Factors

General business risk is based on premium income. The formula factors were based on considering a society's exposure to guaranty fund assessments without attempting to exactly mirror the assessment formulas.

For life and annuity business, the RBS contribution is 2 percent of Schedule T life and annuity considerations.

A small factor of 0.5 percent is applied against accident and health insurance business. The smaller factor for health insurance recognizes that the measure of guaranty fund assessments, Schedule T premium, is a greater amount compared to expected loss in the health business. Generally, total losses in life and annuities are a function of reserves. Conversely, health insurance losses are more likely to be a function of current premiums as measured by Schedule T. Smaller percentage of Schedule T health insurance premium should cover the same level of risk as a full 2 percent charge against life and annuity premiums.

Deposit-type funds shown on Schedule T are not included in the risk-based surplus calculation since they are currently not subject to assessment in most states.

#### Specific Instructions

Amounts reported should equal the Annual Statement references indicated. No adjustments are to be made.

### Calculation of Authorized Control Level Risk-Based Surplus

Page (17-1) and (17-2)

#### Basis of Factors

The purpose of the formula is to estimate the risk-based surplus levels required to manage losses that can be caused by a series of catastrophic financial events.

However, it is remote that all such losses will occur simultaneously. The covariance adjustment states that the combined effect of the (C-1), (C-2) and (C-3) risks are not equal to their sum but are equal to the square root calculation described below. It is statistically assumed that the (C-1) risk and (C-3) risk are correlated, while the (C-2) risk is independent of both. This assumption provides a reasonable approximation of the surplus requirements needed at any particular level of losses.

Total Risk-Based Surplus after Covariance is the sum of the (C-0) plus the (C-4) risk-based surplus and the square root of the sum of the (C-1) and (C-3) risk-based surplus squared and the (C-2) risk-based surplus squared.

Parts of this section do not apply to fraternal benefit societies, but references have been retained for information only.

**Specific Instructions**

**Calculation of Total Adjusted Surplus**

Page (18-1)

**Basis of Factors**

When determining the (C-1) risk factors, availability of the AVR and voluntary investment reserves to absorb specific losses was not assumed. Therefore, the AVR is counted as surplus for the purposes of the formula, although it represents a liability and is not usable against general contingencies.

The Annual Statement provision for future dividends can provide a general cushion against potentially adverse future experience. As a reflection of this possible cushion, 50 percent of the Annual Statement dividend liability is included.

Subsidiary amounts are included as appropriate recognizing that this surplus is included within the surplus of the parent. Property and Casualty subsidiaries should subtract all non-tabular discount from surplus to arrive at the adjusted surplus figure. This adjustment to surplus will be phased in over a five year period by subtracting 20 percent of the non-tabular discount the first year and an additional 20 percent each year thereafter. The same adjustment is made to the surplus of a fraternal society having ownership of a Property and Casualty subsidiary.

**Specific Instructions**

**Line (3)**

Voluntary investment reserves for default losses on real estate and mortgages should be included. Voluntary reserves are those reserves that are held to protect against the general risk of loss for a particular asset category. Involuntary reserves should not be included. The AVR should not be considered a voluntary investment.

The interest maintenance reserve on Page 3 Line 11.4 of the Annual Statement should not be included.

**Line (6) through Line (9)**

The source for subsidiary amounts should be reported from the subsidiaries' Annual Statements. These amounts should be adjusted by percentage of ownership before entering. All U.S. Life, Property and Casualty, and investment subsidiaries should be included.

## Summary for Subsidiary, Controlled and Affiliated Investments

Page 19-1

### Basis of Factors

#### Affiliated Preferred and Common Stock

The risk-based capital for U.S. Life insurance companies, Property and Casualty insurance companies and investment subsidiaries is calculated on a "see through" basis (multiplied by the percent of ownership). This requires "looking through" all holding and subsidiary companies to the lowest level of ownership for each affiliated stock investment. The advantage of this approach is that where there is a choice of whether to have ownership of an asset in either the parent or subsidiary, RBS results are unlikely to affect that decision.

The factor for common stock of other affiliates is set at 30 percent since many of these investments have risk characteristics similar to those of unaffiliated common stock. Conversely, due to management's knowledge and control, the surplus remaining in the affiliate may be the minimum needed to properly conduct its normal course of business. For that reason, a separate sensitivity analysis is completed using a factor of 100 percent. If an insurance subsidiary is owned by another affiliate, the RBS of the insurance subsidiary is calculated first and the 30 percent is applied to the difference between the carrying value of the other affiliate and the carrying value of the insurance subsidiary.

There are twelve categories of subsidiary and affiliated investments that are subject to a RBS requirement for common and preferred stock. The twelve categories are:

1. Directly Owned Property and Casualty Insurance Subsidiaries Subject to Risk-Based Capital
2. Directly Owned Life Insurance Subsidiaries Subject to Risk-Based Capital
3. Indirectly Owned Property and Casualty Insurance Subsidiaries Subject to Risk-Based Capital
4. Indirectly Owned Life Insurance Subsidiaries Subject to Risk-Based Capital
5. Investment Subsidiaries
6. Holding Company Value in Excess of Indirectly Owned Insurance Subsidiaries
7. Alien Insurance Subsidiaries - Canadian Life
8. Alien Insurance Subsidiaries - Others
9. Investments in Upstream Affiliates (Parents)
10. Other Affiliated Investments - Property and Casualty Insurers not subject to Risk-Based Capital
11. Other Affiliated Investments - Life Insurers not subject to Risk-Based Capital
12. Other Affiliated Investments - Non-insurers

These codes (1 through 12) appear in Column (2) of the Subsidiary Worksheet -- Insurance Company Subsidiary Lists. Reporting an affiliate in the wrong category may cause a cross-check failure, requiring correction of the oversight.

The total of all reported affiliated stock should equal the amounts reported on Schedule D Part 2 Section 1 Line 0499999, plus Schedule D Part 2 Section 2 Line 0499999 and Schedule D Part 6 Section 1 Line 0899999 plus Line 1699999.

Affiliated investments fall into two broad categories: (a) insurance and investment subsidiaries that are subject to risk-based capital, and (b) subsidiaries that are not subject to risk-based capital. The risk-based capital for these two broad groups differs. The general treatment for each is explained below.



**Insurance and Investment Subsidiaries that are Subject to Risk-Based Capital**

The risk-based surplus requirement for the reporting society for those insurance subsidiaries that are subject to a risk-based capital requirement is based on the Total Risk-Based Capital After Covariance of the subsidiary, prorated for the percent of ownership of that subsidiary. The risk-based capital for those subsidiaries must be calculated prior to completing the risk-based surplus worksheet. The subsidiaries affected by this rule are:

1. Directly Owned Property and Casualty Insurance Subsidiaries Subject to Risk-Based Capital
2. Directly Owned Life Insurance Subsidiaries Subject to Risk-Based Capital
3. Indirectly Owned Property and Casualty Insurance Subsidiaries Subject to Risk-Based Capital
4. Indirectly Owned Life Insurance Subsidiaries Subject to Risk-Based Capital
5. Investment Subsidiaries

**Directly Owned U.S. Property and Casualty Subsidiaries**

Report information regarding any top-layer directly owned U.S. Property and Casualty insurance subsidiaries in the schedule. For each subsidiary, report its name, NAIC company code, affiliates Total Risk-Based Capital After Covariance, value of the common stock from Schedule D Part 6 Section 1 Line 1099999 (less any amounts reported on the worksheet as affiliate code "10") in Column (1) through Column (6). If no value is reported in the Total Value of Affiliate's Common Stock Column, the program will assume 100 percent ownership. If the reporting society does not own any of the affiliate's common stock but does own preferred stock, the Total Value of Affiliate's Common Stock in Column (6) must be reported so the program can calculate the percent of ownership. Subsidiaries reported in this section are assigned an affiliate code of "1" for directly owned Property and Casualty insurers.

The carrying value of any preferred stock is reported in Column (7) and should equal the amount reported in Schedule D Part 6, Section 1, Line 0299999 (less any amounts reported on the worksheet as affiliate code "10"). The total outstanding value of the affiliate's preferred stock is report in Column (8). The percentage of ownership will be automatically calculated in Column (9). For societies owning both preferred and common stock in the same subsidiary, the percent of ownership is calculated by summing the statement values of the owned preferred and common stock and dividing that amount by the sum of all outstanding preferred and common stock

The risk-based capital to be reported for each subsidiary Property and Casualty insurer should be obtained by using a separate copy of the Property and Casualty risk-based capital program for each subsidiary. Title insurers, monoline financial guaranty insurers and monoline mortgage guaranty insurers are not subject to risk-based capital. Additionally, some insurers are granted exemptions from filing risk-based capital. These affiliates and other similar affiliates should be reported as Other Affiliated Investments - Property and Casualty insurers not subject to risk-based capital.

**Directly Owned U.S. Life Insurance Subsidiaries**

Report information regarding any top-layer directly owned U.S. Life insurance affiliates in the schedule. For each affiliate report the same information as required for directly owned Property and Casualty insurance affiliates that are subject to risk-based capital. The value of common stock should be the same as reported in Schedule D Part 6 Section 1 Line 1199999 (less any amounts reported on the worksheet as affiliate code "11"). The amount of preferred stock reported should match Schedule D Part 6, Section 1 Line 0399999 (less any amounts reported on worksheet as affiliate code "11"). If the life insurance affiliate is not subject to risk-based capital, then it should be considered an Other Affiliated Investment. Subsidiaries reported in this section are assigned an affiliate code of "2" for directly owned Life insurers.

The risk-based capital of each Life affiliate should be obtained by using a separate copy of the Life risk-based capital program for each affiliate.

**Indirectly Owned U.S. Property and Casualty Insurance Subsidiaries**

The reporting society's statement value of the holding company should be allocated between any top-layers, indirectly owned insurance subsidiaries and the Holding Company Value in Excess of Indirectly Owned Insurance Subsidiaries. The carrying value of the holding company should be first allocated based on the values shown on the holding company's balance sheet. The following example shows a hypothetical holding company, Holder Inc., that is 100 percent owned by Big/Little Society and illustrates the allocation of Holder's carrying value among these categories:

ABC Life	\$4,000,000	Balance Sheet	
XYZ Casualty	2,000,000	Holder Inc.	
GX Todd Real Estate	10,000,000	12/31/xx	
Cash	5,000,000	Long-Term Debt	\$14,000,000
Other Assets	3,000,000	Other Liabilities	5,000,000
		Equity	5,000,000
Total Assets	\$24,000,000	Total Liabilities & Equity	24,000,000

Since ABC Life Insurance Company makes up one-sixth (\$4,000,000 divided by \$24,000,000) of the total assets for Holder Inc., then this indirectly owned affiliate represents one-sixth of the carrying value of Holder Inc. on the statement of Big/Little Society. Similarly, XYZ Casualty represents one-twelfth of the carrying value (\$2,000,000 divided by \$24,000,000) of Holder on Big/Little's Annual Statement. Three-fourths of the carrying value of Holder Inc. (\$18,000,000 divided by \$24,000,000) represents the Holding Company Value in Excess of Indirectly Owned Subsidiaries. If Big/Little Society carries Holder Inc. on its Annual Statement at \$30,000,000 (assume that this is the current market value of shares in Holder, which was a publicly traded corporation of which Big/Little has just acquired 100 percent ownership), then Big/Little will allocate one-sixth of the \$30,000,000 to ABC Life, one-twelfth of the \$30,000,000 to XYZ Casualty, and three-fourths to Holder under the category Holding Company Value in Excess of Indirectly Owned Insurance Affiliates. The RBS charge for the indirect ownership of common stock in ABC Life will be ABC's Total RBC After Covariance, adjusted for percent of ownership. (If Holder owns 50 percent of ABC Life the amount would be calculated as 100 percent times 50 percent times RBC after Covariance.) The RBS charge for the indirect ownership of XYZ Casualty would be computed in the same manner.

If Big/Little only acquired 50 percent of the shares of Holder, then these values must be adjusted to reflect Big/Little's partial ownership. The carrying value on Big/Little's Annual Statement is \$15,000,000 which is allocated as \$2,500,000 to ABC Life (one-sixth of \$15,000,000), \$1,250,000 to XYZ Casualty (one-twelfth of \$15,000,000), and \$11,250,000 to Holder as the Holding Company Value in Excess of Indirectly Owned Affiliates. The RBC for the indirectly owned affiliates is also adjusted to reflect the fact that Big/Little only owns 50 percent of the affiliates. There, Big/Little will report \$2,500,000 as the carrying value for ABC Life in Column (5) and \$5,000,000 (\$2,500,000 divided by 0.50) as the total outstanding common stock in Column (6). (The RBC requirement for ABC Life then becomes 50 percent times 50 percent times ABC's Total RBC After Covariance.)

The information for all top-layer, indirectly owned U.S. Property and Casualty insurance subsidiaries and indirectly owned U.S. Life insurance subsidiaries is reported in the appropriate columns within the worksheet. For each affiliate, report its name, NAIC company code and the pro-rated share of risk-based capital along with all other information required in Column (1) through Column (6). Subsidiaries in the section are assigned an affiliate code of "3" for indirectly owned Property and Casualty insurers.

**Indirectly Owned U.S. Life Insurance subsidiaries**

Indirectly owned U.S. Life insurance affiliates are treated in a manner similar to indirectly owned Property and Casualty insurance subsidiaries. Note that the insurance affiliate must be subject to risk-based capital and file a risk-based capital report to be included in this section. Otherwise, the affiliate's value will be included in the Holding Company Value in Excess of Insurance Affiliates section. Subsidiaries reported in this section are assigned an affiliate code of "4" for indirectly owned Life insurers.

**Investment Subsidiaries**

An investment subsidiary is an affiliate that exists only to invest the funds of the parent company. The term investment affiliate is strictly defined in the NAIC's Annual Statement Instructions as any affiliate, other than a holding company, engaged or organized primarily to engage in the ownership and management of investments for the insurer. An investment subsidiary shall not include any broker, dealer or money management fund managing funds other than those of the parent society. The risk-based surplus charge for the ownership of an investment affiliate is based on the risk-based surplus of the underlying assets, pro-rated for the degree of ownership. The basis for this calculation is the assumption that the charge should be the same as it would be if the Property and Casualty insurer held the assets directly.

Report information regarding any investment subsidiaries. Subsidiaries reported in this section are assigned an affiliate code of "5" for investment subsidiaries. The amount of reported common stock should be the same as Schedule D Part 6 Section 1 Line 1499999. Preferred stock information should be the same as Schedule D Part 6 Section 1 Line 0699999.

**Affiliates That Are Not Subject to Risk-Based Capital**

This category includes the last seven categories of affiliated investments:

- 6. Holding Company Value in Excess of Indirectly Owned Insurance Subsidiaries
- 7. Alien Insurance Subsidiaries - Canadian Life
- 8. Alien Insurance Subsidiaries - Others
- 9. Investments in Upstream Affiliates (Parents)
- 10. Other Affiliated Investments - Property and Casualty Insurers not Subject to Risk-Based Capital
- 11. Other Affiliated Investments - Life Insurers not Subject to Risk-Based Capital
- 12. Other Affiliated Investments - Non-insurers

Insurance affiliates that are not subject to risk-based capital, such as title insurers, monoline financial guaranty insurers, and monoline mortgage guaranty insurers are classified as Other Affiliated Investments under the appropriate classification.

The risk-based surplus charge for these investments is calculated by multiplying a factor times the statement value of the common and preferred stock of those affiliates. The risk-based capital factor for Alien Insurance Affiliates is 100 percent (except for Canadian Life insurers); the factor for Holding Company Value in Excess of Indirectly Owned Insurance Subsidiaries, Investments in Upstream Affiliates (Parents), and Other Affiliated Investments is 0.300 times the statement value of the common and preferred stock of those affiliates.

**Holding Company Value in Excess of Indirectly Owned Insurance Subsidiaries**

The risk-based surplus charge for the parent insurer preparing the calculation is a 30 percent charge against the holding company value in excess of the indirectly owned insurance affiliates as calculated in the prior example. Report information in the appropriate columns of the worksheet, omitting those columns that do not apply (Column(3) -- NAIC Company Code and Column (4) affiliate's risk-based capital.). Subsidiaries reported in this section are assigned an affiliate code of "6" for Holding Company Value in Excess of Indirectly Owned Insurance Subsidiary

The total of Indirectly Owned Insurers (Life and Property and Casualty), plus the amount of Holding company Value in Excess of Indirectly Owned Insurance Subsidiaries should equal Schedule D Part 6 Section 1 Line 0599999 for the reporting of preferred stock and Schedule D Part 6 Section 1 Line 1399999 for common stock.

**Alien Insurance Subsidiaries - Canadian Life**

Canadian regulatory authorities have in place a Minimum Continuing Capital and Surplus Requirement (MCCSR) for Canadian Life insurance companies. In addition to the MCCSR formula, Canadian regulators have the authority to adjust the capital requirements upwards for companies where deemed appropriate. For purposes of the U.S. formula, MCCSR times percent of ownership is used to establish the risk-based capital requirement for Canadian Life subsidiaries. If the MCCSR has been adjusted by regulatory authorities, this adjusted MCCSR is to be used. Canadian Property and Casualty companies will continue to be reported in the Alien Insurance Subsidiaries - Other section.

Report the Canadian Life insurer name, Alien Insurer Identification Number, the statement value of common and preferred stock and the total outstanding value of common and preferred stock. Subsidiaries reported in this section are assigned an affiliate code of "7" for Canadian Life insurers.

**Alien Insurance Subsidiaries - Other**

For purposes of this formula, the risk-based capital of each alien insurance subsidiary is the Annual Statement carrying value of the reporting society's interest in the affiliate multiplied by 100 percent. Report information for any non-U.S. insurance affiliate, both Life (except for Canadian Life insurers) and Property and Casualty.

For each affiliate, report the name, Alien Insurer Identification Number, the statement value of common and preferred stock and the total outstanding value of common and preferred stock. Subsidiaries reported in this section are assigned an affiliate code of "8" for alien insurers.

The total of all Alien Insurance Subsidiaries (Canadian Life and Other) should equal the amounts reported in Schedule D Part 6 Section 1 Line 0499999 and Line 1299999.

#### Investment in Upstream Affiliates (Parent)

The risk-based surplus for an investment in an upstream parent is 0.300 times the carrying value of the common and preferred stock, regardless of whether that upstream parent is subject to risk-based capital or not. Report the appropriate information from Schedule D Part 6 Section 1 Line 0199999 and Line 0999999 in Columns (1) through Column (6). The affiliate code for an upstream parent is "9".

#### Other Affiliated Investments

The risk-based surplus for an investment in an Other Affiliated Investment is 0.300 times the carrying value of the common and preferred stock. All insurance affiliates that do not otherwise qualify for another section of this report, such as title insurance companies ("type" code "10") or a life insurance affiliate that has been exempted from the risk-based capital system ("type" code "11"), are to be included in these categories. The affiliate code for an Other Affiliated Investment - Non-insurer is "12". Reported amounts use Schedule D Part 6 Section 1 Line 0799999 and Line 1599999 as the basis of reporting additionally include any Life and Property and Casualty insurers not subject to risk-based capital (as discussed earlier).

## Risk-Based Surplus Level of Action

Page (20-1)

#### Basis of Formula

This section of the risk-based surplus program compares amounts previously developed and thus determines the level of regulatory attention, if any, applicable to the society.

#### Specific Instructions

#### Trend Test

Page 21-1

This section is part of the NAIC Life Risk-Based Capital Report requirement.

#### Basis of Formula

Societies whose Total Adjusted Surplus is between 2.0 and 2.5 times the Authorized Control Level Risk-Based Surplus are subject to a trend test. The trend test calculates the greater of the decrease in the margin between the current year and the prior year and the average of the past three years. It assumes that the decrease could occur again in the coming year. Any society that trends below 1.9 times the Authorized Control Level Risk-Based Surplus would trigger Society Action Level RBS regulatory action.

#### Specific Instructions

The trend test will utilize two of the previous three years of information.

### Sensitivity Tests Page (22-1) and (22-2)

This section is part of the NAIC Life Risk-Based Capital Report requirement.

#### Basis of Formula

The sensitivity tests provide a "what if" scenario recalculating Authorized Control Level RBS or Total Adjusted Surplus using a specified alternative for a particular factor in the formula.

The amounts reported in the sensitivity tests will be an actual recalculation of the Authorized Control Level RBS and Total Adjusted Surplus. If a society does not have any of these specified items, the amounts reported will be the same as the Authorized Control Level RBS and Total Adjusted Surplus as originally calculated.

Other affiliates, noncontrolled assets, guarantees for affiliates, contingent liabilities, long-term leases, and interest swaps reported elsewhere will automatically trigger recalculations of the RBS Authorized Control Level. Societies who own lower tier subsidiaries should enter the referenced amounts from the subsidiaries' risk-based capital report or Annual Statement times the percent of ownership.

Affiliated investments owned by the society, other than preferred and common stock, should be reported on Line (7.1d). Societies owning lower tier subsidiaries should report the referenced amounts from the subsidiaries' Annual Statement, multiplied by the percent of ownership, on Line (7.2).

Surplus notes reported on Page 3 should be reported where indicated. Societies who own lower tier subsidiaries should report the referenced amounts from the subsidiaries' Annual Statement times percent of ownership (as defined in the affiliated stock section).

Current year surplus contributions are reported on Page 4, Line 43a and Line 44a. This amount should be reported where indicated. Societies who own lower tier subsidiaries should report the referenced amounts from the subsidiaries' Annual Statement, multiplied by the percent of the ownership.

The amounts reported on this page for subsidiaries should include only those subsidiaries that are subject to a "look through" risk-based surplus calculation (i.e., insurance and investment subsidiaries). Other subsidiaries have a fixed RBS factor and would therefore have no impact on the sensitivity tests.

### Fraternal Standard

Page (F-1)

#### Basis of Formula

This formula was instituted to measure a society's commitment to fraternal, benevolent and charitable activities. It specifically measures a society's fraternal expenditures in relation to an estimate of its theoretical taxes as a taxable insurance entity. The fraternal performance formula is thus expressed as the ratio of the society's "adjusted fraternal expenditures" to its "minimum standard for fraternal outreach".

w "Adjusted Fraternal Expenditures" are defined as the actual fraternal expenses from the NAIC Annual Statement multiplied by an adjustment factor represented by a ratio of defined fraternal acts and events to the number of society members.

w The "Minimum Standard for Fraternal Outreach" is a sum of calculations of specified percentages of the society's increase in statutory surplus, life and health insurance premiums, annuity considerations and changes in risk-based surplus that represent a rough approximation of taxes the society would incur as a taxable insurance entity.

Page 18

**Specific Instructions**

**Line (5)**

Events are a gathering of local lodge members from a specific purpose on behalf of the society, such as society business meetings, social functions, sports events, classes, special ceremonies, fund raisers, etc.

**Line (6)**

Acts are volunteer services performed by members on behalf of the society for its members and non-members, such as volunteering time to work in museums, libraries, the PTA, hospitals, crisis centers, pollution control, environmental programs, scout groups, etc.

**Line (28)**

The risk-based surplus results were included as an enclosure to the cover letter that accompanied this kit for those societies that completed the 1993 Membership Standards Program Part II Questionnaire. If your society did not participate in the 1993 program, you must complete the 1993 Annual Statement risk-based surplus section of the worksheet.

**1993 RBS Calculation Form**

Page (F-2)

**Basis of Formula**

This formula was developed to calculate the 1993 Risk-Based Surplus used in the 1996 Fraternal Performance Ratio. The RBS for 1993 is determined by dividing the 1993 Total Adjusted Surplus by the 1996 Total Adjusted Surplus to decide the rate of increase or decrease, then multiplying the result by the 1996 Risk-Based Surplus.

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 284-36A-040 Society action level event.** (1) "Society action level event" means any of the following events:

(a) The filing of an RBS report by a fraternal benefit society which indicates that the fraternal benefit society's has total adjusted surplus which is greater than or equal to its society action level RBS but less than the product of its authorized control level RBS and 2.5 and has a negative trend;

(b) The notification by the commissioner to the fraternal benefit society of an adjusted RBS report that indicates an event in (a) of this subsection, provided the insurer does not challenge the adjusted RBS report under WAC 284-36A-060; or

(c) If, pursuant to WAC 284-36A-060, a fraternal benefit society challenges an adjusted RBS report that indicates the event in (a) of this subsection, the notification by the commissioner to the fraternal benefit society that the commissioner has, after a hearing, rejected the fraternal benefit society's challenge.

(2) In the event of a society action level event, the fraternal benefit society shall prepare and submit to the commissioner an RBS plan which shall:

(a) Identify the conditions which contribute to the society action level event;

(b) Contain proposals of corrective actions which the fraternal benefit society intends to take and would be expected to result in the elimination of the society action level event;

(c) Provide projections of the fraternal benefit society's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, and surplus. (The projections for both new and renewal business might include separate projections for each major line of business and separately identify each significant income, expense and benefit component);

(d) Identify the key assumptions impacting the fraternal benefit society's projections and the sensitivity of the projections to the assumptions; and

(e) Identify the quality of, and problems associated with, the fraternal benefit society's business, including but not limited to its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business and use of reinsurance, if any, in each case.

(3) The RBS plan shall be submitted:

(a) Within forty-five days of the society action level event; or

(b) If the fraternal benefit society challenges an adjusted RBS report pursuant to WAC 284-36A-060, within forty-five days after notification to the fraternal benefit society that the commissioner has, after a hearing, rejected the fraternal benefit society's challenge.

(4) Within sixty days after the submission by a fraternal benefit society of an RBS plan to the commissioner, the

commissioner shall notify the fraternal benefit society whether the RBS plan shall be implemented or is, in the judgment of the commissioner, unsatisfactory. If the commissioner determines the RBS plan is unsatisfactory, the notification to the fraternal benefit society shall set forth the reasons for the determination, and may set forth proposed revisions which will render the RBS plan satisfactory, in the judgment of the commissioner. Upon notification from the commissioner, the fraternal benefit society shall prepare a revised RBS plan, which may incorporate by reference any revisions proposed by the commissioner, and shall submit the revised RBS plan to the commissioner:

(a) Within forty-five days after the notification from the commissioner; or

(b) If the fraternal benefit society challenges the notification from the commissioner under WAC 284-36A-060, within forty-five days after a notification to the fraternal benefit society that the commissioner has, after a hearing, rejected the fraternal benefit society's challenge.

(5) In the event of a notification by the commissioner to a fraternal benefit society that the fraternal benefit society's RBS plan or revised RBS plan is unsatisfactory, the commissioner may at the commissioner's discretion, subject to the fraternal benefit society's rights to a hearing under WAC 284-36A-060, specify in the notification that the notification constitutes a regulatory action level event.

(6) Every fraternal benefit society that files an RBS plan or revised RBS plan with the commissioner shall file a copy of the RBS plan or revised RBS plan with the insurance commissioner in any state in which the fraternal benefit society is authorized to do business if:

(a) Such state has an RBS provision substantially similar to WAC 284-36A-035(1); and

(b) The insurance commissioner of that state has notified the fraternal benefit society of its request for the filing in writing, in which case the fraternal benefit society shall file a copy of the RBS plan or revised RBS plan in that state no later than the later of:

(i) Fifteen days after the receipt of notice to file a copy of its RBS plan or revised plan with the state; or

(ii) The date on which the RBS plan or revised RBS plan is filed under subsections (3) and (4) of this section.

## NEW SECTION

**WAC 284-36A-045 Regulatory action level event.**

(1) "Regulatory action level event" means, with respect to a fraternal benefit society, any of the following events:

(a) The filing of an RBS report by the fraternal benefit society which indicates that the fraternal benefit society's total adjusted surplus is greater than or equal to its authorized control level RBS but less than its regulatory action level RBS;

(b) The notification by the commissioner to a fraternal benefit society of an adjusted RBS report that indicates the event in (a) of this subsection, provided the fraternal benefit society does not challenge the adjusted RBS report under WAC 284-36A-060;

(c) If, pursuant to WAC 284-36A-060, the fraternal benefit society challenges an adjusted RBS report that indicates the event in (a) of this subsection, the notification by the commissioner to the fraternal benefit society that the

commissioner has, after a hearing, rejected the fraternal benefit society's challenge;

(d) The failure of the fraternal benefit society to file an RBS report by the filing date, unless the fraternal benefit society has provided an explanation for such failure which is satisfactory to the commissioner and has cured the failure within ten days after the filing date;

(e) The failure of the fraternal benefit society to submit an RBS plan to the commissioner within the time period set forth in WAC 284-36A-040(3);

(f) Notification by the commissioner to the fraternal benefit society that:

(i) The RBS plan or revised RBS plan submitted by the fraternal benefit society is, in the judgment of the commissioner, unsatisfactory; and

(ii) Such notification constitutes a regulatory action level event with respect to the fraternal benefit society, provided the fraternal benefit society has not challenged the determination under WAC 284-36A-060;

(g) If, pursuant to WAC 284-36A-060, the fraternal benefit society challenges a determination by the commissioner under (f) of this subsection, the notification by the commissioner to the fraternal benefit society that the commissioner has, after a hearing, rejected such challenge;

(h) Notification by the commissioner to the fraternal benefit society that the fraternal benefit society has failed to adhere to its RBS plan or revised RBS plan, but only if such failure has a substantial adverse effect on the ability of the fraternal benefit society to eliminate the society action level event in accordance with its RBS plan or revised RBS plan and the commissioner has so stated in the notification, provided the fraternal benefit society has not challenged the determination under WAC 284-36A-060; or

(i) If, pursuant to WAC 284-36A-060, the fraternal benefit society challenges a determination by the commissioner under (h) of this subsection, the notification by the commissioner to the fraternal benefit society that the commissioner has, after a hearing, rejected the challenge.

(2) In the event of a regulatory action level event the commissioner shall:

(a) Require the fraternal benefit society to prepare and submit an RBS plan or, if applicable, a revised RBS plan;

(b) Perform such examination or analysis as the commissioner deems necessary of the assets, liabilities and operations of the fraternal benefit society including a review of its RBS plan or revised RBS plan; and

(c) Subsequent to the examination or analysis, issue an order specifying such corrective actions as the commissioner shall determine are required (a "corrective order").

(3) In determining corrective actions, the commissioner may take into account such factors as are deemed relevant with respect to the fraternal benefit society based upon the commissioner's examination or analysis of the assets, liabilities and operations of the fraternal benefit society, including, but not limited to, the results of any sensitivity tests undertaken pursuant to the RBS instructions. The RBS plan or revised RBS plan shall be submitted:

(a) Within forty-five days after the occurrence of the regulatory action level event;

(b) If the fraternal benefit society challenges an adjusted RBS report pursuant to WAC 284-36A-060 and the challenge is not frivolous in the judgment of the commissioner

within forty-five days after the notification to the fraternal benefit society that the commissioner has, after a hearing, rejected the fraternal benefit society's challenge; or

(c) If the fraternal benefit society challenges a revised RBS plan pursuant to WAC 284-36A-060 and the challenge is not frivolous in the judgment of the commissioner, within forty-five days after the notification to the fraternal benefit society that the commissioner has, after a hearing, rejected the fraternal benefit society's challenge.

(4) The commissioner may retain actuaries and investment experts and other consultants as may be necessary in the judgment of the commissioner to review the fraternal benefit society's RBS plan or revised RBS plan, examine or analyze the assets, liabilities and operations of the fraternal benefit society and formulate the corrective order with respect to the fraternal benefit society. The fees, costs and expenses relating to consultants shall be borne by the affected fraternal benefit society or such other party as directed by the commissioner.

### NEW SECTION

#### **WAC 284-36A-050 Authorized control level event.**

(1) "Authorized control level event" means any of the following events:

(a) The filing of an RBS report by the fraternal benefit society which indicates that the fraternal benefit society's total adjusted capital is greater than or equal to its mandatory control level RBS but less than its authorized control level RBS;

(b) The notification by the commissioner to the fraternal benefit society of an adjusted RBS report that indicates the event in (a) of this subsection, provided the fraternal benefit society does not challenge the adjusted RBS report under WAC 284-36A-060;

(c) If, pursuant to WAC 284-36A-060, the fraternal benefit society challenges an adjusted RBS report that indicates the event in (a) of this subsection, notification by the commissioner to the fraternal benefit society that the commissioner has, after a hearing, rejected the fraternal benefit society's challenge;

(d) The failure of the fraternal benefit society to respond, in a manner satisfactory to the commissioner, to a corrective order (provided the fraternal benefit society has not challenged the corrective order under WAC 284-36A-060); or

(e) If the fraternal benefit society has challenged a corrective order under WAC 284-36A-060 and the commissioner has, after a hearing, rejected the challenge or modified the corrective order, the failure of the fraternal benefit society to respond, in a manner satisfactory to the commissioner, to the corrective order subsequent to rejection or modification by the commissioner.

(2) In the event of an authorized control level event with respect to a fraternal benefit society, the commissioner shall:

(a) Take such actions as are required under WAC 284-36A-045 regarding a fraternal benefit society with respect to which a regulatory action level event has occurred; or

(b) If the commissioner deems it to be in the best interests of the policyholders and creditors of the fraternal benefit society and of the public, take such actions as are



necessary to cause the fraternal benefit society to be placed under regulatory control under RCW 48.36A.286. In the event the commissioner takes such actions, the authorized control level event shall be deemed sufficient grounds for the commissioner to take action under RCW 48.36A.286, and the commissioner shall have the rights, powers and duties with respect to the fraternal benefit society as are set forth in chapter 48.31 RCW. In the event the commissioner takes actions under this paragraph pursuant to an adjusted RBS report, the fraternal benefit society shall be entitled to such protections as are afforded to fraternal benefit societies under the provisions of RCW 48.31.121 pertaining to summary proceedings.

#### NEW SECTION

##### **WAC 284-36A-055 Mandatory control level event.**

(1) "Mandatory control level event" means any of the following events:

(a) The filing of an RBS report which indicates that the fraternal benefit society's total adjusted surplus is less than its mandatory control level RBS;

(b) Notification by the commissioner to the fraternal benefit society of an adjusted RBS report that indicates the event in (a) of this subsection, provided the fraternal benefit society does not challenge the adjusted RBS report under WAC 284-36A-060; or

(c) If, pursuant to WAC 284-36A-060, the fraternal benefit society challenges an adjusted RBS report that indicates the event in (a) of this subsection, notification by the commissioner to the fraternal benefit society that the commissioner has, after a hearing, rejected the fraternal benefit society's challenge.

(2) In the event of a mandatory control level event, the commissioner shall take such actions as are necessary to place the fraternal benefit society under regulatory control under RCW 48.36A.286. In that event, the mandatory control level event shall be deemed sufficient grounds for the commissioner to take action under RCW 48.36A.286, and the commissioner shall have the rights, powers and duties with respect to the fraternal benefit society as are set forth in chapter 48.31 RCW. If the commissioner takes actions pursuant to an adjusted RBS report, the fraternal benefit society shall be entitled to the protections of RCW 48.31.121 pertaining to summary proceedings. Notwithstanding any of the foregoing, the commissioner may forego action for up to ninety days after the mandatory control level event if the commissioner finds there is a reasonable expectation that the mandatory control level event may be eliminated within the ninety-day period.

#### NEW SECTION

**WAC 284-36A-060 Fraternal benefit society's right to a hearing.** (1) Upon notification to a fraternal benefit society by the commissioner of any of the following, the fraternal benefit society shall have the right to a hearing, in accordance with chapters 48.04 and 34.05 RCW, at which the fraternal benefit society may challenge any determination or action by the commissioner:

(a) Of an adjusted RBS report; or

(b)(i) That the fraternal benefit society's RBS plan or revised RBS plan is unsatisfactory; and

(ii) The notification constitutes a regulatory action level event with respect to such fraternal benefit society; or

(c) That the fraternal benefit society has failed to adhere to its RBS plan or revised RBS plan and that such failure has a substantial adverse effect on the ability of the fraternal benefit society to eliminate the society action level event with respect to the fraternal benefit society in accordance with its RBS plan or revised RBS plan; or

(d) Of a corrective order with respect to the fraternal benefit society.

(2) The fraternal benefit society shall notify the commissioner of its request for a hearing within five days after the notification by the commissioner under this section. Upon receipt of the fraternal benefit society's request for a hearing, the commissioner shall set a date for the hearing. The date shall be no less than ten nor more than ninety days after the date of the fraternal benefit society's request.

#### NEW SECTION

**WAC 284-36A-065 RBS report from foreign fraternal benefit society.** (1) In the event of a company action level event, regulatory action level event or authorized control level event with respect to any foreign fraternal benefit society as determined under the RBS statute applicable in the state of domicile of the fraternal benefit society (or, if no RBS statute is in force in that state, under the provisions of this regulation), if the insurance commissioner of the state of domicile of the foreign fraternal benefit society fails to require the foreign fraternal benefit society to file an RBS plan in the manner specified under that state's RBS statute (or, if no RBS statute is in force in that state, under WAC 284-36A-040), the commissioner may require the foreign or fraternal benefit society to file an RBS plan with the commissioner. In such event, the failure of the foreign fraternal benefit society to file an RBS plan with the commissioner shall be grounds to order the fraternal benefit society to cease and desist from writing new insurance business in this state.

(2) In the event of a mandatory control level event with respect to any foreign fraternal benefit society, if no domiciliary receiver has been appointed with respect to the foreign fraternal benefit society under the rehabilitation and liquidation statute applicable in the state of domicile of the foreign fraternal benefit society, the commissioner may apply for an order pursuant to RCW 48.31.080 to conserve the assets within this state of foreign fraternal benefit society, and the occurrence of the mandatory control level event shall be considered adequate grounds for the application.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 284-36A-030 RBS level—Commissioner's action.



**WSR 98-03-045**  
**PERMANENT RULES**  
**EXECUTIVE ETHICS BOARD**  
[Filed January 15, 1998, 11:54 a.m.]

**Reviser's note:** Due to a clerical error, the filing date of WSR 98-03-045 was shown as January 14, 1998. The correct date should be January 15, 1998, as shown above in bold, and the effective date of the filing will be February 15, 1998.

**WSR 98-04-001**  
**PERMANENT RULES**  
**EXECUTIVE ETHICS BOARD**  
[Filed January 21, 1998, 1:47 p.m.]

Date of Adoption: January 9, 1998.

Purpose: The purpose of this new section, WAC 292-110-060 Compensation for outside activities and contracting with state agencies, is to explain procedures used by state officers, state employees, when contracting with state agencies.

Statutory Authority for Adoption: RCW 42.52.360 (2)(b).

Adopted under notice filed as WSR 97-20-099 on September 29, 1997.

Changes Other than Editing from Proposed to Adopted Version: The Executive Ethics Board received one written comment relating to the adoption of WAC 292-110-060 at the time of its public hearing on November 14, 1997. The comment, submitted by the Washington State Department of Transportation expressed concern that the proposed rule omitted a provision under RCW 42.52.120 and would therefore be unclear for state employees. Public comment at the meeting indicated agreement with the Washington State Department of Transportation's concern, and added a concern about employees whose spouses contract with the employing state agency.

Based on these comments, and the concerns of the board members, the following amendments were made to the proposed rule:

Board members voted on the following amendments to the proposed rule:

Subsection (1), create a separate subsection for the policy statement for ease of reference.

Subsection (2)(b), line 1, insert the words "is not" before "under"; line 2, insert the words "is not" before "created"; and line 3, insert the words "is not" before "within." Changes were made to achieve parallel construction and clarity.

Subsection (4)(b), line 2, insert the word "has" before "advised."

Subsection (5), add a single subsection to deal with contracts formerly contained in two subsections. Add reference to contracts where spouses have a beneficial interest, but do not participate in the contract.

Subsection (6)(b), change the word "or" to "and."

Subsections (7) and (9), deleted from original proposed rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or

Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 20, 1998  
Margaret A. Grimaldi  
Executive Secretary

**EXECUTIVE ETHICS BOARD**

**CHAPTER 292-110 WAC**

**AGENCY SUBSTANTIVE RULES**

**NEW SECTION**

**WAC 292-110-060 Compensation for outside activities and contracting with state agencies.** (1) The primary purpose of the Ethics in Public Service Act is to prevent conflicts of interest that impair the impartial and independent judgment of state officers and employees. A conflict of interest may occur when a state officer or state employee accepts compensation for outside activities, and acceptance conflicts with the performance of official duties on behalf of the state and the citizens of Washington. Conflicts of interest occur whenever a state officer or state employee has a beneficial interest in a transaction with the state; accepts outside compensation for the performance or non-performance of an official duty; or, accepts or seeks outside compensation relating to a matter in which the officer or employee participated in an official capacity. A conflict of interest extends to those matters in which a state officer or employee exercises responsibility. Potential conflicts of interest relating to the receipt of compensation for outside activities may be resolved by seeking the review and prior approval of the Executive Ethics Board.

2) A state officer or employee may not receive anything of economic value under a contract or grant outside his or her official duties unless each of the following conditions is met:

(a) the contract or grant is legitimate and actually performed;

(b) the contract or grant is not within the state officer's or employee's official duties, is not under his or her supervision; is not created or authorized by the state officer or employee in an official capacity, and is not within an area of his or her official responsibility;

(c) The contract or grant is not performed for nor compensated by a person from whom the state officer or employee would not be able to accept a gift; and,

(d) the contract or grant would not require the disclosure of confidential or non-public information.

(3) A state officer or employee may not engage in a business or transaction or professional activity, or incur an

**PERMANENT**

obligation of any nature if such activities may conflict with the proper discharge of official duties.

(4) A state officer or employee may not enter into a contract or receive a grant, or have a beneficial interest in a contract or grant with a state agency unless all conditions in section two are met, and one of the following conditions are satisfied:

(a) the contract bid or grant application is awarded through an open and competitive bidding process and more than one bid or grant application is received; or

(b) if only one bid or application is received, or the process for awarding the contract or grant was not open and competitive, and the executive ethics board has advised that the employee's interest in the contract or grant is not in conflict with the proper discharge of the employee's official duties.

(5) Provided that the conditions in sections two and three are met, the following contracts are approved by the Executive Ethics Board:

(a) a contract or grant whereby the state officer or state employee receives assistance through state programs or federal programs administered by the state when they are entitled to receive such assistance by law and on the same basis as similarly situated citizens, and when the officer or employee does not exercise discretionary judgement with regard to an assistance program for which he or she is otherwise eligible;

(b) A contract to perform teaching duties at a bona fide community college, vocational-technical school, or institution of higher learning, provided no state resources are used to perform the duties; there is no conflict with the performance of official duties; and the state officer or state employee did not use his or her official position to influence the contract of employment; and,

(c) A contract held by a spouse, in which the officer or employee has a beneficial interest, with a state agency, provided that the officer or employee did not participate in the contract.

(d) An employee who has a contract or grant or a beneficial interest therein which is approved by the board under section (5)(a)-(c) of this rule is not required to file a separate application for approval of the contract under section (6). However, the employee is responsible for determining that the criteria in sections (2) and (3) are satisfied.

(e) An employee who is awarded a contract or grant under section (5)(a)-(c) of this rule shall file a copy of the contract with the board. However, if the employee's only interest is a beneficial interest, the contract need not be filed with the board.

(6) State officers and employees seeking the approval of the board for a contract, grant application, or outside employment shall provide the following information to the board secretary no later than thirty days prior to the commencement of the contract:

(a) a description of current official duties and responsibilities;

(b) a statement of the work to be performed and, a copy of the contract;

(c) the duration and dollar value of the contract, if applicable;

(d) a statement that no state resources will be used to perform the outside employment or to fulfill the contract or grant; and,

(e) a description of how the work will be performed without the use of state resources.

(7) The board secretary shall review the contract or grant application terms and related documents and may determine whether there could be a potential conflict. If the board secretary determines:

(a) there would be no potential conflict under sections two and three of this rule, the board secretary shall approve the contract or grant application.

(b) there could be a potential conflict under sections two and three of this rule, the board secretary shall refer the contract or grant application to the board for approval or disapproval.

(8) If a contract has been amended or the scope of work altered, and the effect of the amendment or alteration may create a potential conflict of interest under sections two and three of this rule, the employee must resubmit the contract to the board at least fifteen days prior to commencement of work under the amended or altered contract.

(9) If a series of substantially identical contracts or grants with a state agency is anticipated, the state officer or employee may request that the board pre-approve such contracts or grants. Pre-approval shall be effective for the period of one calendar year, after which the state officer or employee shall resubmit the request.

(10) The board secretary shall provide written notice of any action on a contract bid, grant application or request for outside employment within fifteen (15) working days of the board's action.

(11) Final contracts reviewed under this rule shall be filed with the board secretary within thirty (30) days of execution.

**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 98-04-003**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed January 22, 1998, 4:00 p.m.]

Date of Adoption: January 22, 1998.

Purpose: To change eligibility requirements for institutional care to comply with 42 CFR 435.1005. The department will base eligibility on "gross nonexempt" income rather than "countable" income. Editorial changes to improve readability do not change intent of this WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 388-513-1315.

Statutory Authority for Adoption: RCW 74.04.050 and 74.08.090.

Other Authority: 42 CFR 435.1005.

Adopted under notice filed as WSR 97-23-083 on November 19, 1997.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 22, 1998

Edith M. Rice, Chief  
Office of Legal Affairs

**AMENDATORY SECTION** (Amending Order 3980, filed 5/10/96, effective 6/10/96)

**WAC 388-513-1315 Eligibility determination—Institutional.** (1) ~~((The department shall find))~~ A person ((meeting the requirements of WAC 388-513-1320)) is eligible for institutional care under the categorically needy program, if the person:

(a) ~~((Is SSI-related with countable))~~ Has achieved institutional status as described under WAC 388-513-1320; and

(b) Has gross nonexempt income:

(i) ~~((Equal to or less))~~ For an SSI-related person, no greater than three hundred percent of the SSI Federal Benefit Amount((-The department shall determine a person's eligibility under the categorically needy program)); ((and)) or

(ii) ~~((Greater than three hundred percent of SSI federal benefit amount. The department shall determine a person's eligibility under the limited-casualty—medically-needy program as determined under WAC 388-513-1395.~~

(b) Is AFDC-related with countable income:

(i) ~~Equal to or less))~~ For an AFDC or TANF-related person, no greater than the one-person program standard as described under WAC 388-505-0590, 388-508-0805, or 388-509-0960. ((The department shall determine a person's eligibility under the categorically needy program; and

(ii) ~~Greater than the program standards as described under subsection (1)(b)(i) of this section. The department shall determine a person's eligibility under the limited-casualty—medically-needy program as determined under WAC 388-513-1395.)~~

(c) ~~((Does not have nonexcluded))~~ Has resources((r)) which are:

(i) Not exempt under WAC 388-513-1360 and 388-513-1365, ((greater)) and

(ii) Less than ((limitations)) the standards under WAC 388-513-1310 and 388-513-1395((2)); and

(d) Is not subject to a period of ineligibility for transferring of resources under WAC 388-513-1365.

~~(2) ((The department shall determine nursing facility residents))~~ A person is eligible for institutional care ((when the amount of the resources in excess of the amount in WAC 388-513-1310 plus countable income are less than the nursing facility private rate plus recurring medical expenses)) under the limited-casualty program—medically-needy, if the person meets the requirements in WAC 388-513-1395.

~~(3) ((The department shall allocate a client's income and resources as described under WAC 388-513-1380.~~

~~(4) When both spouses are institutionalized, the department shall determine the eligibility of each spouse individually.~~

~~(5) The department shall determine eligibility for a person residing or expected to reside in a Medicaid-approved medical facility less than the amount of time needed to achieve institutional status in WAC 388-513-1320 as for a noninstitutionalized person.~~

~~(6) The department shall determine eligibility))~~ For an AFDC- or TANF-related child under eighteen years of age residing or expected to reside in inpatient chemical dependency treatment or inpatient mental health treatment ((as described under)) refer to WAC 388-506-0610 (1)(f).

~~((7))~~ (4) For other institutionalized persons twenty years of age or younger, ((the department shall not consider)) the income and resources of the parents are not considered available unless the income and resources are actually contributed.

~~((8) The department shall determine as))~~

(5) A person is eligible for Medicaid ((a person)) who:

(a) Meets institutional status as a psychiatric facility resident; and

(b) Is twenty years of age or younger or is sixty-five years of age or older.

~~((9) The department shall not consider))~~

(6) A client's income and resources are allocated as described under WAC 388-513-1380.

(7) When both spouses are institutionalized, the department shall determine the eligibility of each spouse individually.

(8) A person's transfer between medical institutions ((as)) is not a change in ((institutionalized)) institutional status((-

~~(10) For the effect of a social absence from an institutional living arrangement, see WAC 388-88-115)).~~

WSR 98-04-004

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed January 22, 1998, 4:04 p.m.]

Date of Adoption: January 22, 1998.

Purpose: This amendment changes cross references, incorporates the provisions of WAC 388-512-1280 into 388-512-1275, and repeals WAC 388-512-1280. Amends WAC 388-529-2960 by changing a reference. This amendment does not change the intent of the rule.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-512-1280; and amending WAC 388-512-1275 and 388-529-2960.

Statutory Authority for Adoption: RCW 74.04.050 and 74.08.090.

Other Authority: RCW 74.09.510.

Adopted under notice filed as WSR 97-23-084 on November 19, 1997.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 2, 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 2, repealed 1.

Effective Date of Rule: Thirty-one days after filing.

January 22, 1998  
Edith M. Rice, Chief  
Office of Legal Affairs

**AMENDATORY SECTION** (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-512-1275 Continuing certification.** (1) A grandfathered client who continues to meet requirements (~~of WAC 388-512-1215, 388-512-1245, 388-512-1260, 388-512-1265 and 388-512-1270 may be recertified for medical assistance~~) under this chapter is eligible for medical assistance.

(2) When a grandfathered client ((~~who~~)) does not ((~~continue to~~)) meet the requirements ((~~in subsection (1) of this section shall be terminated. See WAC 388-512-1280~~)) under this chapter, the department shall:

(a) Terminate the client's medical assistance; and

(b) Redetermine the client's eligibility under chapter 388-511 WAC.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 388-512-1280 Application following termination.

**AMENDATORY SECTION** (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-529-2960 Scope of care—Qualified Medicare beneficiary (QMB), special low-income Medicare beneficiary and qualified disabled working individual (QDWI).** Refer to chapter 388-517 WAC ((388-517-1700)) for scope of care concerning QMB, SLMB, and QDWI clients.

**WSR 98-04-005**

**PERMANENT RULES**

**INSURANCE COMMISSIONER'S OFFICE**

[Insurance Commissioner Matter No. R 97-3—Filed January 22, 1998, 4:25 p.m.]

Date of Adoption: January 22, 1998.

Purpose: Revision, repeal, and adoption of rules affecting health plans offered by disability insurers, health care service contractors and health maintenance organizations to create a consistent regulatory environment for managed health care. In addition, rules are amended to conform to the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) which preempts state law to the extent that the federal provisions offer greater protection to groups and individuals.

Citation of Existing Rules Affected by this Order: Repealing chapter 284-10 WAC, WAC 284-43-040, 284-43-100, 284-44-240, 284-44-410, 284-46-020, and 284-46-575.

Statutory Authority for Adoption: RCW 48.02.060, 48.20.450, 48.20.460, 48.30.010, 48.44.020, 48.44.050, 48.44.080, 48.46.030, 48.46.060(2), 48.46.200, and 48.46.243.

Adopted under notice filed as WSR 98-03-004 on January 8, 1998.

Changes Other than Editing from Proposed to Adopted Version: Definitions were amended by changing the definitions of managed care and health carrier narrowing application of the rule. Network adequacy standards were amended to remove the requirement that health carriers monitor the financial capability and legal authority of health care providers within plan networks. Carriers may use private accreditation standards as evidence of compliance. Network reports were amended to reduce the number and type of reports and to permit health carriers to vary reports from the required format upon a showing of practical or financial hardship. Health care provider selection standards were amended to prohibit discrimination against providers who specialize in treating minority populations. Grievance reporting requirements were removed and all related grievance procedures and health service review standards were removed. Several clarifying amendments were made to reduce the cost and burdens of the rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 4, amended 0, repealed 8; 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 17, amended 0, repealed 15.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, amended 0, repealed 4.

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 17, amended 0, repealed 15.

Effective Date of Rule: Thirty-one days after filing.

January 22, 1998

Deborah Senn

Insurance Commissioner

PERMANENT

**Chapter 284-43 WAC**  
**HEALTH CARRIERS AND HEALTH PLANS**

**SUBCHAPTER A**  
**GENERAL PROVISIONS**

**NEW SECTION**

**WAC 284-43-110 Purpose.** The purpose of this chapter is to establish uniform regulatory standards for health carriers and to create minimum standards for health plans that ensure consumer access to the health care services promised in these health plans.

**NEW SECTION**

**WAC 284-43-120 Applicability and scope.** This chapter shall apply to all health plans and all health carriers subject to the jurisdiction of the state of Washington except as otherwise expressly provided in this chapter. Health carriers are responsible for compliance with the provisions of this chapter and are responsible for the compliance of any person or organization acting on behalf of or at the direction of the carrier, or acting pursuant to carrier standards or requirements concerning the coverage of, payment for, or provision of health care services. Nothing in this chapter shall be construed to permit the direct regulation of health care providers or facilities by the office of the insurance commissioner.

**NEW SECTION**

**WAC 284-43-130 Definitions.** Except as defined in other subchapters and unless the context requires otherwise, the following definitions shall apply throughout this chapter.

(1) "Covered benefits" means those health care services to which a covered person is entitled under the terms of a health plan.

(2) "Covered person" means an individual covered by a health plan including an enrollee, subscriber, policyholder, or beneficiary of a group plan.

(3) "Emergency medical condition" means the emergent and acute onset of a symptom or symptoms, including severe pain, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical attention, if failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

(4) "Emergency services" means otherwise covered health care services medically necessary to evaluate and treat an emergency medical condition, provided in a hospital emergency department.

(5) "Enrollee point-of-service cost-sharing" or "cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(6) "Facility" means an institution providing health care services, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers,

diagnostic, laboratory, and imaging centers, and rehabilitation and other therapeutic settings.

(7) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding:

(a) Denial of health care services or payment for health care services; or

(b) Issues other than health care services or payment for health care services including dissatisfaction with health care services, delays in obtaining health care services, conflicts with carrier staff or providers, and dissatisfaction with carrier practices or actions unrelated to health care services.

(8) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 RCW or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(9) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(10) "Health carrier" means a disability insurance company regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, and a health maintenance organization as defined in RCW 48.46.020.

(11) "Health plan" means any individual or group policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care service except the following:

(a) Long-term care insurance governed by chapter 48.84 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Limited health care service offered by limited health care service contractors in accordance with RCW 48.44.035;

(d) Disability income;

(e) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(f) Workers' compensation coverage;

(g) Accident only coverage;

(h) Specified disease and hospital confinement indemnity when marketed solely as a supplement to a health plan;

(i) Employer-sponsored self-funded health plans;

(j) Dental only and vision only coverage; and

(k) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

(12) "Managed care plan" means a health plan that coordinates the provision of covered health care services to a covered person through the use of a primary care provider and a network.

(13) "Network" means the group of participating providers and facilities providing health care services to a

particular health plan. A health plan network for carriers offering more than one health plan may be smaller in number than the total number of participating providers and facilities for all plans offered by the carrier.

(14) "Participating provider" and "participating facility" means a facility or provider who, under a contract with the health carrier or with the carrier's contractor or subcontractor, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, from the health carrier rather than from the covered person.

(15) "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing.

(16) "Primary care provider" means a participating provider who supervises, coordinates, or provides initial care or continuing care to a covered person, and who may be required by the health carrier to initiate a referral for specialty care and maintain supervision of health care services rendered to the covered person.

(17) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(18) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(19) "Small group" means a health plan issued to a small employer as defined under RCW 48.43.005(24) comprising from one to fifty eligible employees.

## SUBCHAPTER B HEALTH CARE NETWORKS

### NEW SECTION

**WAC 284-43-200 Network adequacy.** (1) A health carrier offering a managed care plan shall maintain each plan network in a manner that is sufficient in numbers and types of providers and facilities to assure that all health plan services to covered persons will be accessible without unreasonable delay. In the case of emergency services, covered persons shall have access twenty-four hours per day, seven days per week. The carrier's service area shall not be created in a manner designed to discriminate against persons because of age, sex, family structure, ethnicity, race, health condition, employment status, or socioeconomic status. Each carrier shall ensure that its networks will meet these requirements by the end of the first year of operation; or, for those plans already in existence, within six months after the effective date of this rule.

(2) Sufficiency may be established by the carrier with reference to any reasonable criteria used by the carrier, including but not limited to: Provider-covered person ratios by specialty, primary care provider-covered person ratios, geographic accessibility, waiting times for appointments with participating providers, hours of operation, and the volume

of technological and specialty services available to serve the needs of covered persons requiring technologically advanced or specialty care. Evidence of carrier compliance with network adequacy standards that are substantially similar to those standards established by state agency health care purchasers (e.g., the state health care authority and the Department of Social and Health Services) and by private managed care accreditation organizations may be used to demonstrate sufficiency.

(3) In any case where the health carrier has an insufficient number or type of participating providers to provide a covered health care service, the carrier shall ensure through referral by the primary care provider or otherwise that the covered person obtains the covered service at no greater cost to the covered person than if the service were obtained from network providers and facilities, or shall make other arrangements acceptable to the commissioner.

(4) The health carrier shall establish and maintain adequate arrangements to ensure reasonable proximity of network providers and facilities to the business or personal residence of covered persons. In determining whether a health carrier has complied with this provision, the commissioner will give due consideration to the relative availability of health care providers in the service area under consideration and to the standards established by state agency health care purchasers.

(5) A health carrier shall monitor, on an ongoing basis, the ability and clinical capacity of its network providers and facilities to furnish health plan services to covered persons.

### NEW SECTION

**WAC 284-43-210 Network reporting requirement and access plan.** Beginning January 1, 1999, health carriers shall file with the commissioner an access plan meeting the requirements of this subchapter for each of the managed care plans that the carrier offers in this state. The health carrier shall make the access plans available on its business premises and shall provide them to any interested party upon request. The carrier shall prepare an access plan prior to offering a new managed care plan, and shall update an existing access plan whenever it makes any material change to an existing managed care plan. The access plan shall contain at least the following:

(1) A description of the health carrier's network of providers and facilities by license or certification type and by geographic location;

(2) The following provision is a restatement of a statutory requirement found in RCW 48.43.095 (1)(c) included here for ease of reference: "A full description of the procedures to be followed by an enrollee for consulting a provider other than the primary care provider and whether the enrollee's primary care provider, the carrier's medical director, or another entity must authorize the referral";

(3) A description of the health carrier's process for monitoring and assuring on an ongoing basis the sufficiency of the network to provide covered services that meet the health care needs of populations that enroll in managed care plans;

(4) A description of the health carrier's efforts to address the needs of covered persons with limited English



proficiency and literacy, with diverse cultural and ethnic backgrounds, and with physical and mental disabilities;

(5) A description of the health carrier's methods for assessing the health care needs of covered persons and their satisfaction with services;

(6) A description of the health carrier's method of informing covered persons of the plan's services and features, including but not limited to, the plan's grievance procedures, its process for covered persons choosing and changing providers, and its procedures for providing and approving emergency and specialty care including the following restated statutory requirements found in RCW 48.43.095 (1)(e), (f), and (i) included here for ease of reference: "Procedures, if any, that an enrollee must first follow for obtaining prior authorization for health care services. . . , and. . . description of any reimbursement or payment arrangements, including, but not limited to, capitation provisions, fee-for-service provisions, and health care delivery efficiency provisions, between a carrier and a provider. . . , and. . . Descriptions and justifications for provider compensation programs, including any incentives or penalties that are intended to encourage providers to withhold services or minimize or avoid referrals to specialists";

(7) A description of the health carrier's system for ensuring the coordination and continuity of care for covered persons referred to specialty providers, for covered persons using ancillary services, including social services and other community resources, and for ensuring appropriate discharge planning;

(8) A description of the health carrier's proposed plan for providing continuity of care in the event of contract termination between the health carrier and any of its participating providers and facilities, or in the event of the health carrier's insolvency or other inability to continue operations. The description shall explain how covered persons will be notified of the contract termination, or the health carrier's insolvency or other cessation of operations, and transferred to other providers in a timely manner; and

(9) A description of the health carrier's strategy for integrating public health goals with health services offered to covered persons under the managed care plans of the health carrier, including a description of the health carrier's good faith efforts to initiate or maintain communication with public health agencies.

(10) A description of the health carrier's methods for assessing the health status of its covered persons including a description of how the carrier incorporates findings of local public health community assessments.

With respect to the above required elements of an access plan, each carrier shall provide sufficient information to allow the commissioner and consumers to determine the extent of a carrier's efforts. For example, if a carrier makes little or no effort to coordinate health plan services with public health goals, then the carrier shall report that it does not coordinate services with public health goals.

#### NEW SECTION

**WAC 284-43-220 Network reports—Format.** Beginning January 1, 1999, each health carrier shall provide a description of each of its networks to the commissioner. In describing its network, each carrier shall include an

explanation of its established access standards, noting the criteria used to measure the standards. For example, a carrier should indicate whether travel distances or driving times are used to determine accessibility. In addition, each carrier shall indicate which providers are classified as primary care providers, obstetric and women's health care providers.

(1) Beginning January 1, 1999, each health carrier shall provide the insurance commissioner with:

(a) An annual electronic or hard copy paper report of all participating providers by managed care plan and monthly updates. This report shall contain all the data items shown in the table. (Form A.) Filing of this data satisfies the reporting requirements of RCW 48.44.080 and the requirements of RCW 48.46.030 relating to filing of notices that describes changes in the provider network.

(b) An annual electronic or hard copy paper report indicating the total number of covered persons who were entitled to health care services during each month of the year, excluding nonresidents, by line of business, by product (with identifying form number filed with this office, if appropriate), by county, and by sex. The report shall conform to the table. (Form B.)

(2) In addition to the provider and covered persons reports, each carrier shall file annual reports meeting the standards below and shall update the reports whenever a material change in a carrier's provider network occurs that significantly affects the ability of covered persons to access covered services. Each carrier shall file for each managed care plan, using a network accessibility analysis system, such as GeoNetworks or any other similar system:

(a) A map showing the location of covered persons and primary care providers with a differentiation between single and multiple provider locations.

(b) An access table illustrating the relationship between primary care providers and covered persons by county, including at a minimum:

(i) County.

(ii) Total number of covered persons.

(iii) Total number of primary care providers.

(iv) Number of covered persons meeting the carrier's self defined access standard.

(v) Percentage of covered persons meeting the carrier's self defined access standard.

(vi) Average distance to at least one primary care provider for its covered persons.

(c) A list indicating alphabetically by county and by city:

(i) County;

(ii) City;

(iii) Total number of covered persons;

(iv) Total number of primary care providers;

(v) Total number of obstetric and women's health care providers;

(vi) Total number of specialists;

(vii) Total number of nonphysician providers by license type;

(viii) Total number of hospitals; and

(ix) Total number of pharmacies.

(3) A carrier may vary the method of reporting required under subsection (2) of this section upon written request and subsequent written approval by the commissioner after a

showing by the carrier that the carrier does not use or does not have easy access to electronic or data systems permitting the method of reporting required without incurring substantial costs.

PERMANENT

ORGANIZATION REPORTING: \_\_\_\_\_ FOR THE YEAR ENDED DECEMBER 31, 19\_\_\_\_  
 FORM A: PROVIDER LISTING FORMAT

FIELD NAME	PROVIDER TYPE			FIELD WIDTH	VALID CODES/STANDARD
	PRACTITIONER	HOSPITAL	PHARMACY		
Health Carrier	*	*	*	10 Alpha	
Provider Type	*	*	*	1	1=Practitioner, 2=Hospital, 3=Pharmacy if available
National Provider Identifier					
WA Licence Number (Primary)	*			10	AA00000000 (2 Alpha, 8 Numeric)
WA Licence Number (Secondary)	*			10	AA00000000 (2 Alpha, 8 Numeric)
Licence Type	*			12	Alpha
Last Name	*			25	Alpha
First Name	*			15	Alpha
Middle Initial/Name	*			15	Alpha
Birth Date	*			10	Month-Day-Year (XX-XX-XXXX)
Primary Specialty	*			14	Alpha
Secondary Specialty	*			14	Alpha
Languages, other than English	*			30	Alpha, if multiple, truncate and separate with commas
Business on Building	*	*	*	36	Alphanumeric
Address 1	*	*	*	36	Not a PO Box, meets US Postal Service requirements
Address 2	*	*	*	36	Not a PO Box, meets US Postal Service requirements
City	*	*	*	20	Alpha
State	*	*	*	2	WA,OR,ID
Zip	*	*	*	10	Numeric
County	*	*	*	13	Alpha
Day Phone	*			23	(XXX) XXX-XXXX ext XXXX
Managed Care Plan (s)	*	*	*	60	String with comma separators if multiple
Plan Contract Number (s)	*	*	*	60	String with comma separators if multiple
Provides obsteric care?	*			1	Y=Yes, N=No
PCP, Specialist or Both	*			1	P=PCP, S=Specialist, B= Both
Date Credentialed					Month-Day-Year (XX-XX-XXXX)
Enrollee capacity	*			5	Numeric

\* = Required

Date: \_\_\_\_\_ Signed: \_\_\_\_\_ Title: \_\_\_\_\_

FORM B: REPORT OF COVERED PERSONS AND PLAN VOLUME

ORGANIZATION REPORTING: \_\_\_\_\_ BUSINESS: \_\_\_\_\_ PRODUCT: \_\_\_\_\_ FOR THE CALENDAR YEAR ENDED DECEMBER 31, \_\_\_\_\_

	Jan			Feb			Mar			Apr			May			Jun		
	Female enrollees	Male enrollees	Total enrollees	Female enrollees	Male enrollees	Total enrollees	Female enrollees	Male enrollees	Total enrollees	Female enrollees	Male enrollees	Total enrollees	Female enrollees	Male enrollees	Total enrollees	Female enrollees	Male enrollees	Total enrollees
Adams																		
Asotin																		
Benton																		
Chelan																		
Clallam																		
Clark																		
Columbia																		
Cowlitz																		
Douglas																		
Ferry																		
Franklin																		
Garfield																		
Grant																		
Grays Harbor																		
Island																		
Jefferson																		
King																		
Kitsap																		
Kittitas																		
Klickitat																		
Lewis																		
Lincoln																		
Mason																		
Okanogan																		
Pacific																		
Pend Orielle																		
Pierce																		
San Juan																		
Skagit																		
Skamania																		
Snohomish																		
Spokane																		
Stevens																		
Thurston																		
Wahkiakum																		
Walla Walla																		
Whatcom																		
Whitman																		
Yakima																		
Total																		

Date \_\_\_\_\_ Signed \_\_\_\_\_ Title: \_\_\_\_\_

PERMANENT

PERMANENT

FORM B: REPORT OF COVERED PERSONS AND PLAN VOLUME

FOR THE CALENDAR YEAR ENDED DECEMBER 31, \_\_\_\_\_

BUSINESS: \_\_\_\_\_ PRODUCT: \_\_\_\_\_

ORGANIZATION REPORTING: \_\_\_\_\_

	Jul		Aug		Sep		Oct		Nov		Dec		Current Year Totals	
	Female enrollees	Male enrollees	Female enrollees	Male enrollees	Female enrollees	Male enrollees	Female enrollees	Male enrollees	Female enrollees	Male enrollees	Female enrollees	Male enrollees	Female enrollees	Male enrollees
Adams														
Asotin														
Benton														
Chelan														
Clallam														
Clark														
Columbia														
Cowlitz														
Douglas														
Ferry														
Franklin														
Garfield														
Grant														
Grays Harbor														
Island														
Jefferson														
King														
Kitsap														
Kittitas														
Klickitat														
Lewis														
Lincoln														
Mason														
Okanogan														
Pacific														
Pend Oreille														
Pierce														
San Juan														
Skagit														
Skamania														
Snohomish														
Spokane														
Stevens														
Thurston														
Wahkiakum														
Walla Walla														
Whatcom														
Whitman														
Yakima														
Total														

Date \_\_\_\_\_ Signed \_\_\_\_\_ Title \_\_\_\_\_

NEW SECTION

**WAC 284-43-250 Health carrier standards for women's right to directly access certain health care practitioners for women's health care services.** (1) "Women's health care services" is defined to include, but need not be limited to, maternity care, reproductive health services, gynecological care, general examination, and preventive care as medically appropriate, and medically appropriate follow-up visits for these services. General examinations, preventive care, and medically appropriate follow-up care are limited to services related to maternity, reproductive health services, gynecological care, or other health services that are particular to women, such as breast examinations. Women's health care services also include any appropriate health care service for other health problems, discovered and treated during the course of a visit to a women's health care practitioner for a women's health care service, which is within the practitioner's scope of practice.

(2) A health carrier shall not deny coverage for medically appropriate laboratory services, imaging services, diagnostic services, or prescriptions for pharmaceutical or medical supplies, which are ordered by a directly accessed women's health care practitioner, and which are within the practitioner's scope of practice, if such services would be covered when provided by another type of health care practitioner. A health carrier shall not require authorization by another type of health care practitioner for these services.

(3)(a) All health carriers shall permit each female policyholder, subscriber, enrolled participant, or beneficiary of carrier policies, plans, and programs written, amended, or renewed after July 23, 1995, to directly access the types of women's health care practitioners identified in RCW 48.42.100(2), for appropriate covered women's health care services without prior referral from another health care practitioner.

(b) Direct access may be limited to those women's health care practitioners who have signed participating provider agreements with the carrier for a specific benefit plan network. Every carrier shall include in each provider network, a sufficient number of each type of practitioner included in the definition of women's health care practitioners in RCW 48.42.100(2) to ensure that enrollees can exercise their right of direct access.

(4) To inform enrollees of their rights under RCW 48.42.100, all health carriers shall include in enrollee handbooks a written explanation of a woman's right to directly access women's health care practitioners for covered women's health care services. Enrollee handbooks shall include information regarding any limitations to direct access, including, but not limited to:

(a) Limited direct access based on a benefit plan's closed network of practitioners, if appropriate; and

(b) The carrier's right to limit coverage to medically necessary and appropriate women's health care services.

(5) No carrier shall impose cost-sharing, such as copayments or deductibles, for directly accessed women's health care services, that are not required for access to health care practitioners acting as primary care providers.

**SUBCHAPTER C  
PROVIDER AND FACILITY CONTRACTS**

NEW SECTION

**WAC 284-43-300 Provider and facility contracts with health carriers—Generally.** A health carrier contracting with providers or facilities for health care service delivery to covered persons shall satisfy all the requirements contained in this subchapter. The health carrier shall ensure that providers and facilities subcontracting with these providers and facilities under direct contract with the carrier also satisfy the requirements of this subchapter.

NEW SECTION

**WAC 284-43-310 Selection of participating providers—Credentialing and unfair discrimination.** (1) Health carrier selection standards for participating providers and facilities shall be developed by the carrier for primary care providers and each health care provider or facility license or professional specialty. The standards shall be used in determining the selection of health care providers and facilities by the health carrier. The standards shall be consistent with rules or standards established by the state department of health or other regulatory authority established in Title 18 RCW for health care providers specified in RCW 18.130.040. Selection criteria shall not be established in a manner:

(a) That would allow a health carrier to avoid risk by excluding providers or facilities because they are located in geographic areas that contain populations presenting a risk of higher than average claims, losses, or health services utilization; or

(b) That would exclude providers or facilities because they treat or specialize in treating persons presenting a risk of higher than average claims, losses, or health services utilization or because they treat or specialize in treating minority or special populations.

(2) The provisions of subsection (1)(a) and (b) of this section shall not be construed to prohibit a carrier from declining to select a provider or facility who fails to meet other legitimate selection criteria of the carrier. The purpose of these provisions is to prevent network creation and provider or facility selection to serve as a substitute for prohibited health risk avoidance or prohibited discrimination.

(3) The provisions of this subchapter do not require a health carrier to employ, to contract with, or retain more providers or facilities than are necessary to comply with the network adequacy standards of this chapter.

(4) A health carrier shall make its selection standards for participating providers and facilities available for review upon request by the commissioner.

NEW SECTION

**WAC 284-43-320 Provider contracts—Standards—Hold harmless provisions.** The execution of a contract by a health carrier shall not relieve the health carrier of its obligations to any covered person for the provision of health care services, nor of its responsibility for compliance with statutes or regulations. In addition to the contract form filing requirements of this subchapter, all individual provider

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and facility contracts shall be in writing and available for review upon request by the commissioner.

(1) A health carrier shall establish a mechanism by which its participating providers and facilities can obtain timely information on patient eligibility for health care services and health plan benefits, including any limitations or conditions on services or benefits.

(2) Each participating provider and participating facility contract shall contain the following provisions or variations approved by the commissioner:

(a) "{Name of provider or facility} hereby agrees that in no event, including, but not limited to nonpayment by {name of carrier}, {name of carrier's} insolvency, or breach of this contract shall {name of provider or facility} bill, charge, collect a deposit from, seek compensation, remuneration, or reimbursement from, or have any recourse against a covered person or person acting on their behalf, other than {name of carrier}, for services provided pursuant to this contract. This provision shall not prohibit collection of {deductibles, copayments, coinsurance, and/or noncovered services}, which have not otherwise been paid by a primary or secondary carrier in accordance with regulatory standards for coordination of benefits, from covered persons in accordance with the terms of the covered person's health plan."

(b) "{Name of provider or facility} agrees, in the event of {name of carrier's} insolvency, to continue to provide the services promised in this contract to covered persons of {name of carrier} for the duration of the period for which premiums on behalf of the covered person were paid to {Name of carrier} or until the covered person's discharge from inpatient facilities, whichever time is greater."

(c) "Notwithstanding any other provision of this contract, nothing in this contract shall be construed to modify the rights and benefits contained in the covered person's health plan."

(d) "{Name of provider or facility} may not bill the covered person for covered services (except for deductibles, copayments, or coinsurance) where {name of carrier} denies payments because the provider or facility has failed to comply with the terms or conditions of this contract."

(e) "{Name of provider or facility} further agrees (i) that the provisions of (a), (b), (c), and (d) of this subsection {or identifying citations appropriate to the contract form} shall survive termination of this contract regardless of the cause giving rise to termination and shall be construed to be for the benefit of {name of carrier's} covered persons, and (ii) that this provision supersedes any oral or written contrary agreement now existing or hereafter entered into between {name of provider or facility} and covered persons or persons acting on their behalf."

(f) "If {name of provider or facility} contracts with other providers or facilities who agree to provide covered services to covered persons of {name of carrier} with the expectation of receiving payment directly or indirectly from {name of carrier}, such providers or facilities must agree to abide by the provisions of (a), (b), (c), (d), and (e) of this subsection {or identifying citations appropriate to the contract form}."

(3) The contract shall inform participating providers and facilities that willfully collecting or attempting to collect an amount from a covered person knowing that collection to be

in violation of the participating provider or facility contract constitutes a class C felony under RCW 48.80.030(5).

(4) A health carrier shall notify participating providers and facilities of their responsibilities with respect to the health carrier's applicable administrative policies and programs, including but not limited to payment terms, utilization review, quality assessment and improvement programs, credentialing, grievance procedures, data reporting requirements, confidentiality requirements and any applicable federal or state requirements.

(5) The following provision is a restatement of a statutory requirement found in RCW 48.43.075 included here for ease of reference:

(a) "No health carrier subject to the jurisdiction of the state of Washington may in any way preclude or discourage their providers from informing patients of the care they require, including various treatment options, and whether in their view such care is consistent with medical necessity, medical appropriateness, or otherwise covered by the patient's service agreement with the health carrier. No health carrier may prohibit, discourage, or penalize a provider otherwise practicing in compliance with the law from advocating on behalf of a patient with a health carrier. Nothing in this section shall be construed to authorize providers to bind health carriers to pay for any service."

(b) "No health carrier may preclude or discourage patients or those paying for their coverage from discussing the comparative merits of different health carriers with their providers. This prohibition specifically includes prohibiting or limiting providers participating in those discussions even if critical of a carrier."

(6) A health carrier shall require participating providers and facilities to make health records available to appropriate state and federal authorities involved in assessing the quality of care or investigating the grievances or complaints of covered persons subject to applicable state and federal laws related to the confidentiality of medical or health records.

(7) A health carrier and participating provider and facility shall provide at least sixty days' written notice to each other before terminating the contract without cause. The health carrier shall make a good faith effort to assure that written notice of a termination within fifteen working days of receipt or issuance of a notice of termination is provided to all covered persons who are patients seen on a regular basis by the provider whose contract is terminating, irrespective of whether the termination was for cause or without cause. Where a contract termination involves a primary care provider, that carrier shall make a good faith effort to assure that notice is provided to all covered persons who are patients of that primary care provider.

(8) A health carrier is responsible for ensuring that participating providers and facilities furnish covered services to covered persons without regard to the covered person's enrollment in the plan as a private purchaser of the plan or as a participant in publicly financed programs of health care services. This requirement does not apply to circumstances when the provider should not render services due to limitations arising from lack of training, experience, skill, or licensing restrictions.

(9) A health carrier shall not penalize a provider because the provider, in good faith, reports to state or federal

authorities any act or practice by the health carrier that jeopardizes patient health or welfare.

(10) The following provision is a restatement of a statutory requirement found in RCW 48.43.085: "Notwithstanding any other provision of law, no health carrier subject to the jurisdiction of the state of Washington may prohibit directly or indirectly its enrollees from freely contracting at any time to obtain any health care services outside the health care plan on any terms or conditions the enrollees choose. Nothing in this section shall be construed to bind a carrier for any services delivered outside the health plan."

(11) Every participating provider contract shall contain procedures for the fair resolution of disputes arising out of the contract.

#### NEW SECTION

**WAC 284-43-330 Participating provider—Filing and approval.** (1) Beginning May 1, 1998, a health carrier shall file with the commissioner fifteen days prior to use sample contract forms proposed for use with its participating providers and facilities.

(2) A health carrier shall submit material changes to a sample contract form that would affect a provision required by this chapter to the commissioner fifteen days prior to use. Changes in provider payment rates, coinsurance, copayments, or deductibles are not considered material changes for the purpose of this subsection.

(3) If the commissioner takes no action within fifteen days after submission of a sample contract or a material change to a sample contract form by a health carrier, the change or form is deemed approved except that the commissioner may extend the approval period an additional fifteen days upon giving notice before the expiration of the initial fifteen-day period. Approval may be subsequently withdrawn for cause.

(4) The health carrier shall maintain provider and facility contracts at its principal place of business in the state, or the health carrier shall have access to all contracts and provide copies to facilitate regulatory review upon twenty days prior written notice from the commissioner.

#### NEW SECTION

**WAC 284-43-340 Effective date.** (1) All participating provider and facility contracts entered into after the effective date of this subchapter shall comply with this subchapter no later than July 1, 1998.

(2) Participating provider and facility contracts entered into prior to the effective date of this subchapter shall be amended upon renewal to comply with the provisions of this subchapter, and all such contracts shall conform to the provisions of this subchapter no later than July 1, 1999. The commissioner may extend the July 1, 1999 deadline, for an additional period not to exceed six months if the health carrier demonstrates good cause for an extension.

### **SUBCHAPTER G ISSUANCE, RENEWAL, AND PORTABILITY OF HEALTH PLANS**

#### NEW SECTION

**WAC 284-43-700 Purpose.** The purpose of this subchapter is to effectuate the health insurance market reforms enacted as part of the Health Care Reform Act (sections 280 through 291, chapter 492, Laws of 1993 as amended) and to identify federal laws that supersede state law pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Health carriers are required to follow federal standards that exceed the protections afforded under state law.

#### NEW SECTION

**WAC 284-43-710 Portability of health insurance benefits.** (1) Every health carrier shall waive any preexisting condition exclusion or limitation for persons or groups who had similar health coverage under a different health plan at any time during the three-month period immediately preceding the date of application for the new health plan to the extent that such person was continuously covered under the immediately preceding health plan. If the person was continuously covered for at least three months under the immediately preceding health plan, the carrier may not impose a waiting period for coverage of preexisting conditions unless the plan is dissimilar to the immediately preceding plan as determined in accordance with subsection (4) of this section. If the person was continuously covered for less than three months under the immediately preceding health plan, the carrier may not impose a waiting period for a preexisting condition that exceeds the difference between the number of months the person was continuously covered under the immediately preceding health plan and any preexisting condition waiting period under the new health plan. For purposes of portability of benefits under this section and to meet federal requirements (adapted from the federal definition of "creditable coverage" under section 701 of Public Law 104-191, August 21, 1996), "health plan" includes:

- (a) Employer provided health plans including self-funded plans;
- (b) Part A or part B of Title XVIII of the Social Security Act;
- (c) Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928 of the Act;
- (d) Chapter 55 of Title 10, United States Code;
- (e) A medical care program of the Indian Health Service or of a tribal organization;
- (f) The Washington state health insurance pool created under RCW 48.41.040;
- (g) A health plan offered under chapter 89 of Title 5, United States Code;
- (h) The state basic health plan; and
- (i) A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. Sec. 2504(e)).

(2) When an employer providing group health coverage to his or her employees imposes a probationary period or similar delay in eligibility for health plan coverage of new employees, the health carrier shall count the day of first employment with the new employer as the first day of coverage for purposes of applying the portability of benefit provisions of this section so that the new employees and

dependents obtain the protections of this rule at the end of such probationary period.

(3) A carrier may not avoid the portability requirements of this section by taking into consideration, for rating purposes, the health condition or health experience of a person applying for an individual health plan or of a person being added to an existing group plan. For example, a person being added to a group or applying for an individual health plan who is availing himself or herself of the portability provisions of this section may not be rated based upon health conditions or past health experience.

(4) For purposes of this section only, a new health plan is similar to the immediately preceding health plan if the actuarial value of the benefits under the new health plan as a whole is not more than twenty-five percent greater than the benefits provided under the immediately preceding health plan when all cost-sharing and other benefit limitations are taken into consideration.

A health carrier asserting that the new health plan is dissimilar to the immediately preceding health plan of a person applying for coverage must provide such person with a written statement describing the basis for the carrier's determination.

(5) Nothing contained in this section requires a health carrier to amend a health plan to provide new benefits in its existing health plans. For example, if a person was provided maternity benefits under the immediately preceding health plan, the carrier need not amend the new health plan being purchased to provide such benefits if the new health plan being purchased does not include maternity benefits for any covered person. In addition, nothing in this section requires a carrier to waive benefit limitations not related to an individual or group's preexisting conditions or health history. For example, this rule does not apply to a one-year waiting period for use of a particular benefit (e.g., organ transplants) imposed equally upon all covered persons without regard to health condition.

#### NEW SECTION

**WAC 284-43-720 Guaranteed issue and restrictions on the denial, exclusion, or limitation of health benefits for preexisting conditions.** (1) All health carriers shall accept for enrollment any state resident within the carrier's service area and provide or assure the provision of all covered services regardless of age, sex, family structure, ethnicity, race, health conditions, geographic location, employment status, socioeconomic status, other conditions or situation, or HIV status. Thus, health carriers may not reject health plan applicants and may not limit or exclude plan coverage for any reason associated with health risk or perceived health risk except for the imposition of a preexisting condition exclusion as permitted in this chapter.

(2) No carrier may reject an applicant for any health plan it offers based upon preexisting conditions of the applicant or in the case of a group applicant, individuals within the group and no carrier may deny, exclude, or otherwise limit coverage for an individual's preexisting health conditions; except that a carrier may impose a three-month benefit waiting period for preexisting conditions for which medical advice was given, or for which a provider

recommended or provided treatment within the three months before the effective date of coverage.

(3) Genetic information shall not be treated as a health condition in the absence of a diagnosis of the condition related to such information.

(4) A carrier may not impose any preexisting condition exclusion relating to pregnancy as a preexisting condition in group health plans.

(5) No carrier may avoid the requirements of this section through the creation of a new rate classification or the modification of an existing rate classification. A new or changed rate classification will be deemed an attempt to avoid the provisions of this section if the new or changed classification would substantially discourage applications for coverage from individuals or groups who are higher than average health risks. For example, a carrier could not create a new rate classification for "uninsurable risks."

(6) The guaranteed issue provisions of this section do not apply to health plans in which the carrier has zero enrollment.

#### NEW SECTION

**WAC 284-43-730 Guaranteed renewability—Health insurance.** (1) All health plans shall contain or incorporate by endorsement, a guarantee of the continuity of coverage of the plan.

(2) The guarantee of continuity of coverage required in health plans shall not prevent a carrier from canceling or nonrenewing a health plan, without the prior approval of the insurance commissioner:

(a) For nonpayment of premiums or contributions in accordance with the terms of the health plan;

(b) When the covered person has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the plan;

(c) In the case of a group plan, when the group sponsor has failed to comply with a material plan provision relating to employer contribution or group participation rules except as limited under RCW 48.21.045, 48.44.023, or 48.46.064;

(d) When the carrier is withdrawing from a service area or from a segment of its service area because the carrier has demonstrated to the insurance commissioner that the carrier's clinical, financial, or administrative capacity to serve covered persons would be exceeded; and

(e) When the carrier is ceasing to offer the plan and replaces the plan with another plan offered to all covered persons within that class or line of business that includes all of the health care services covered under the replaced plan and does not significantly limit access to the kind of services covered under the replaced plan. The carrier may also allow unrestricted conversion to a fully comparable product.

(3) The provisions of this section do not apply to health plans deemed by the commissioner to be for a unique, limited, or short-term purpose after a written request for such classification by the carrier and subsequent written approval by the commissioner.

(4) In any case in which a carrier decides to discontinue offering a particular individual or group plan as permitted under subsection (2)(e) of this section, the carrier must provide notice to each covered person of the discontinuation at least ninety days prior to discontinuation.



(5) In any case in which a carrier nonrenews an individual or group plan as permitted under this section, the carrier shall ensure that covered persons receive notice of nonrenewal including the reason for such nonrenewal.

**SUBCHAPTER H  
HEALTH PLAN BENEFITS**

**NEW SECTION**

**WAC 284-43-800 Recognizing the exercise of conscience by purchasers of basic health plan services and ensuring access for all enrollees to such services.** (1)

All carriers required pursuant to law to offer and file with the commissioner a plan providing benefits identical to the basic health plan services (the model plan) shall file for such plan a full description of the process it will use to recognize an organization or individual's exercise of conscience based on a religious belief or conscientious objection to the purchase of coverage for a specific service. This process may not affect a nonobjecting enrollee's access to coverage for those services.

(2) A religiously sponsored carrier who elects, for reasons of religious belief, not to participate in the provision of certain services otherwise included in the model plan, shall file for such plan a description of the process by which enrollees will have timely access to all services in the model plan.

(3) The commissioner will not disapprove processes that meet the following criteria:

- (a) Enrollee access to all basic health plan services is not impaired in any way;
- (b) The process meets notification requirements specified in RCW 48.43.065; and
- (c) The process relies on sound actuarial principles to distribute risk.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 284-43-040 Review and approval of certified health plan provider selection, termination, and dispute resolution provisions.
- WAC 284-43-100 Health carrier standards for women's right to directly access certain health care practitioners for women's health care services.

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

- WAC 284-10-010 Purpose, intent, and authority.
- WAC 284-10-015 Scope and applicability.
- WAC 284-10-020 Definitions.
- WAC 284-10-030 Portability of health insurance benefits.
- WAC 284-10-050 Restrictions on the denial, exclusion, or limitation of

health benefits for preexisting conditions.  
 Guaranteed renewability—  
 Health insurance. Purpose, intent, and authority.  
 Certification of withdrawal from the market and exemption from short-term reform rules.  
 Severability provision.  
 Recognizing the exercise of conscience by purchasers of basic health plan services and ensuring access for all enrollees to such services.

WAC 284-10-060

WAC 284-10-070

WAC 284-10-090

WAC 284-10-140

**REPEALER**

The following section of the Washington Administrative Code is repealed effective May 1, 1998:

WAC 284-44-240 Participating provider contracts.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 284-44-410 Form for reporting number of persons entitled to services.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 284-46-020 Form for reporting number of persons entitled to services.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective May 1, 1998:

WAC 284-46-575 Participating provider contracts.

**WSR 98-04-007  
PERMANENT RULES  
WASHINGTON STATE PATROL**

[Filed January 23, 1998, 8:35 a.m.]

Date of Adoption: January 23, 1998.

Purpose: To prescribe the state-wide standards for retail sale of fireworks.

Citation of Existing Rules Affected by this Order: Amending WAC 212-17-185.

Statutory Authority for Adoption: RCW 70.77.250, chapters 70.77 and 43.43 RCW.

Adopted under notice filed as WSR 97-16-120 on August 6, 1997.

Changes Other than Editing from Proposed to Adopted Version:

**WAC 212-17-185 (~~Retailers of fireworks—General~~)  
License and Permit. (1) Persons desiring to engage in the business of selling fireworks at retail shall secure a license**

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from the director of the Washington state patrol fire protection bureau.

**Explanation: Title is more specific to the section. Identifies the Washington State Patrol as the licensor.** (From Committee)

(2) In addition to the state license, a permit must be obtained from the local governmental officials having jurisdiction.

(a) The application shall be made on forms provided by the director of fire protection and shall be accompanied by the license fee of ~~((ten))~~ forty dollars.

**Explanation: Includes fees required by RCW 70.77.340 and 70.77.343.** (From Committee)

(b) License applications shall be made on or before ~~((June 10))~~ May 1 of the year for which the license is desired.

**Explanation: Compliance with chapter 70.77 RCW.** (From Committee)

(c) The director of fire protection shall grant or deny the license within fifteen days of receipt of the application.

(d) Applicants are cautioned to first determine whether a local retail sales permit for fireworks can be obtained.

(3) A retailer's license to sell fireworks shall not authorize the licensee to engage in any other fireworks activity. Retailers are limited to selling only those fireworks which have been approved for sale to the public and appear on the list of approved fireworks published annually by the director of fire protection. A copy of the list shall be prominently posted at each retail outlet.

#### **NEW SECTION**

**WAC 212-17-21503 Definitions.** (1) "Common fireworks" means those fireworks defined as common fireworks in RCW 70.77.136.

(2) "Following year" means the year immediately following the year in which a license or permit is issued.

(3) "License" means a license as defined in RCW 70.77.170.

(4) "Magazine" means a structure as defined in Section 214 of the Uniform Fire Building Code.

**Explanation: Identifies the correct code.** (From Committee)

(5) "Membrane material" means a thin, flexible, impervious material capable of being supported by an air pressure of 1.5 inches of water column (373 Pa).

(6) "Permanent retail or wholesale structure" means an enclosure or shelter erected for a period of 30 days or more used for the sales, at retail or wholesale, of legal fireworks of any kind.

**Explanation: The word "legal" added for clarification.** (From Committee)

(7) "Permanent storage structure" means a building or other structure used to store any fireworks not authorized within the scope of a retail fireworks stand permit.

(8) "Permit" means a permit as defined in RCW 70.77.180.

(9) "Private way" means any privately owned driveway, lane, access way or similar parcel of land ~~having a clear width of not less than eight feet~~ essentially unobstructed from the ground to the sky which serves as access from private property to a public road.

**Explanation: Widths were removed because not all jurisdictions have the same standard for road width.** (From Committee)

(10) "Public road" means any street or alley essentially unobstructed from the ground to the sky which is deeded, dedicated or otherwise permanently appropriated to the public for public use, ~~and having a clear width of not less than ten feet.~~

**Explanation: Widths were removed because not all jurisdictions have the same standard for road width.** (From Committee)

(11) "Recognized testing laboratory" means a nationally recognized testing laboratory approved by the state fire marshal.

(12) "Temperature overheat protection" means a device which immediately interrupts the power to the heating element of a portable heating unit when the portable heating unit exceeds its designed operating temperature.

(13) "Temporary power drop" means an electrical service connection to a temporary retail fireworks stand.

**Explanation: Clarification.** (From Committee)

(14) "~~Temporary~~ Retail fireworks stand" means a ~~temporary~~ structure used for the retail sales of common fireworks.

**Explanation: Deleting the term "temporary," makes this definition consistent with chapter 70.77 RCW.** (From Committee)

(15) "Temporary storage structure" means a building or other structure used for storage of common fireworks directly related to a retail fireworks stand and authorized within the scope of a retail fireworks stand permit.

(16) "Temporary structure" means an enclosure or shelter erected for a period of less than 30 days and not otherwise defined in the Uniform Fire Code as a tent or canopy.

(17) "Tip-over protection" means a device which immediately interrupts the power to the heating element of a portable heating unit when the portable heating unit is tipped or tilted more than 45 degrees from its designed operating position.

(18) "Uniform Building Code" means the edition currently adopted by the state of Washington.

(19) "Uniform Fire Code" means the edition currently adopted by the state of Washington.

#### **NEW SECTION**

**WAC 212-17-21505 General provisions.** (1) The State of Washington hereby fully occupies the entire field of regulation relating to the construction and use of temporary and permanent structures for the retail sale and storage of fireworks including: The location of and areas surrounding, the operation of and the cleanup after the use of said structures, pursuant to RCW 70.77.270.

**Explanation: Clarifies the intent of the general provisions so that permanent buildings used for the retail sale must meet the requirements of this WAC for general operation.**

(From Committee)

(2) The State of Washington hereby preempts the authority of local jurisdictions with respect to the retail sale and associated storage of common fireworks from temporary structures. This rule constitutes the entire and exclusive authority for regulation of all such matters. Subject to the limitations imposed by chapter 70.77 RCW, a city or county may ban fireworks; or a city or county may restrict the dates of sale, purchase, possession and use of fireworks; or a city or county may restrict the types of fireworks that may be sold and purchased within its boundaries. If a city or county allows the sale of fireworks classified as common fireworks from temporary structures these rules preempt that city's or that county's authority to enact or enforce any other regulations.

(3) Except as prescribed by this rule, the use of permanent structures~~((;))~~ or temporary structures over four hundred square feet for fireworks sales and storage shall be subject to the provisions of the Uniform Fire Code and the Uniform Building Code, and local ordinances.

**Explanation: This change clarifies the intent of the committee that all permanent buildings will be regulated by the state adopted building and fire codes. Previous language allowed permanent buildings under 400 square feet to be regulated by this rule.** (From Committee)

(4) The use of temporary structures for the temporary sale or storage of common fireworks are exempt from the Uniform Building Code, Uniform Fire Code and local ordinances except that where a city or county ordinance regulates the sale or use of fireworks as a part of that city's or that county's building code or fire code, those provisions of that county's or that city's building or fire code which are not in conflict with this rule are not hereby preempted or affected.

(5) Each license and permit shall be issued and shall remain valid and effective for the thirteen month period beginning on January 1 of the year in which application is made and ending January 31 of the following year.

(6) Only Class C common fireworks, obtained from state-licensed wholesalers, not otherwise prohibited by chapter 70.77 RCW or local ordinance, and holiday related products incidental but related to these products, may be sold in retail fireworks stands.

(7) Except as limited by local ordinance, fireworks may be sold from 12:00 noon on June 28 through 12:00 noon on July 6. Fireworks may not be sold between the hours of 11:00 p.m. and 9:00 a.m. from June 28 through July 3. Fireworks may not be sold from 12:00 midnight on July 4 through 9:00 a.m. on July 5. Fireworks may not be sold from 11:00 p.m. on July 5 through 9:00 a.m. on July 6.

(8) Except as limited by local ordinance, fireworks may be sold from 6:00 p.m. on December 31 through 1:00 a.m. on January 1 of the following year.

(9) Licensees shall familiarize all persons working in a retail fireworks stand with the provisions of these rules.

(10) ~~The State Fire Marshal and the local authority having jurisdiction shall comply with the provisions of RCW~~

~~43.05.005 in the application of this rule.~~ Failure to comply at any time with the provisions of this rule or any other applicable regulation shall constitute a violation of chapter 70.77 RCW and may result in the temporary suspension or immediate revocation of the license or permit, closure of the fireworks sales or storage structure, the seizure and or forfeiture of some or all of the fireworks, and other criminal penalties as specified by law.

**Explanation: First sentence unnecessary since compliance with RCWs is mandatory. The language "temporary suspension or" was added to this section when WAC 212-17-21515 (6)(c) was deleted. The words "and or forfeiture" were added to make the language consistent with chapter 70.77 RCW.** (From Committee)

(11) The local authority having jurisdiction, with the concurrence of the State Fire Marshal, is authorized to modify any of the provisions of WAC 212-17-21509, 212-17-21511, 212-17-21513, 212-17-21515, and 212-17-21517 upon written application by the licensee or a duly authorized representative, where there are practical difficulties in the way of carrying out the provisions of these sections, provided that the spirit of the rule shall be complied with, public safety secured and substantial justice done. The particulars of such modification shall be registered with the State Fire Marshal.

**Explanation: This section was added in order to eliminate redundant sections in WAC 212-17-21509, 212-17-21511, 212-17-21513, 212-17-21515, and 212-17-21517. Language is similar to state adopted fire code and clarifies requirements for granting exception to these rules.** (From Committee)

#### **NEW SECTION**

**WAC 212-17-21507 Transportation.** When transporting fireworks, licensees shall comply with all federal, state and local transportation requirements, provided that, upon request of the licensee, the local authority having jurisdiction may waive or modify the local transportation requirements. Nothing in these rules shall restrict the right of any person to transport, in a private vehicle, fireworks which have been legally purchased from a retail fireworks licensee.

#### **NEW SECTION**

**WAC 212-17-21509 Location.** (1) Activities or uses subject to this rule shall not be limited in location except where such activities or uses are prohibited or controlled by local development regulation, traffic safety or road construction standards.

(2) Temporary retail fireworks stands shall not be located more than 150 feet from a private ~~access~~ way, fire department access road, public road, street or highway as measured by an approved route around the exterior of the stand. The minimum requirements for a private (~~access~~) way shall be determined by the local authority having jurisdiction, but shall not exceed the requirements of locally adopted street, road and access standards.

**Explanation: Makes section compatible with language in Table 212-17-21509.** (From Committee)

PERMANENT

(3) Any two retail fireworks stands shall be at least one hundred feet apart or shall be separated by a road, street or highway not less than thirty feet in width.

(4) Retail fireworks stands shall be located as required by Table 212-17-21509. The minimum required area surrounding the stand shall be marked or flagged, except that

flagging and marking shall not block a sidewalk or pedestrian pathway. Flagging need not exceed twenty feet in any direction.

Explanation: Sets a reasonable limit to flagging required of a retail fireworks stand. (From Committee)

Table 212-17-21509

Retail Fireworks Stands - Minimum Clearances						
	Buildings	Combustibles	Property Line	Parking	Motor Vehicle Traffic PUBLIC ROAD*	Motor Vehicle Traffic PRIVATE WAY
BACK OF STAND	20 FT.	20 FT.	5 FT.	20 FT.	20 FT.	5 FT.
SIDE OF STAND	20 FT.	20 FT.	5 FT.	20 FT.	20 FT.	5 FT.
FRONT OF STAND	40 FT. <u>20 FT.**</u>	40 FT. <u>20 FT.**</u>	20 FT.	20 FT.	20 FT.	20 FT.

**NOTE: Clearance distances are not cumulative**

\* Measured from the outer edge of the nearest traffic lane.

**\*\* If stand is equipped with 135° fusible links which will automatically close all sales doors in case of fire, or is equipped with a wire-mesh screen with openings of not more than one inch which covers not less than 90% of all sales openings.**

**Explanation: The clearance distances were increased in response to a test conducted in Clark County that showed the main hazard from a fire in a retail fireworks stand to be fireworks shooting out the front of the stand. Increased clearance is necessary to protect exposures to these flying fireworks. However, those distances can be decreased if the stand is equipped with either wire mesh in at least 90% of the front (sales) opening or fusible links that will cause the front (sales) doors to close automatically in case of fire.**

(From Committee)

(5) Retail fireworks stands shall not be located closer than one hundred feet from any flammable or combustible liquid or gas dispensing device, nor less than three hundred feet from any flammable or combustible liquid or gas bulk storage or dispensing facility, such as a tank farm. Retail fireworks stands shall not be located closer than one hundred feet from any motor vehicle dispensing station, retail propane dispensing station, flammable liquid storage, or combustible liquid storage. Retail fireworks stands shall not be located closer than three hundred feet from any bulk storage of flammable or combustible liquid or gas, including bulk dispensing areas.

**EXCEPTION:**

1. Fuel for generators as allowed by WAC 212-17-21513(4).

2. Fuel within the tanks of motor vehicles.

**Explanation: Clarifies the intent. Identifies types of facilities and their required separation from the retail fireworks stand.** (From Committee)

(6) Upon request by a licensee, the State Fire Marshal, with the concurrence of the local authority having jurisdiction, may modify any portion of this section provided that any modification shall not be more restrictive than the requirements herein.

**Explanation: Moved to WAC 212-17-21505(11).** (From Committee)

**NEW SECTION**

**WAC 212-17-21511 Area around the retail fireworks stand.** (1) The minimum areas around the retail fireworks stand specified in WAC 212-17-21509 shall be kept free of accumulation of dry grass, dry brush and combustible debris. No parking shall be permitted within this minimum area.

(2) No motor vehicle or trailer may be parked within twenty feet of a retail fireworks stand except when delivering, loading or unloading fireworks.

(3) Fireworks shall not be discharged within 100 feet of a retail fireworks stand. Signs reading "NO FIREWORKS DISCHARGE WITHIN 100 FEET" in letters at least two inches high, with a principal stroke of not less than one-half inch, on contrasting background, shall be conspicuously posted on all four sides of the stand.

PERMANENT

(4) No smoking shall be allowed within the retail fireworks stand or within the minimum flagged off area. Signs reading "NO SMOKING WITHIN 20 FEET" in letters at least two inches high, with principal stroke of not less than one-half inch, on a contrasting background, shall be conspicuously posted on all four sides of the stand.

~~(5) Upon request by a licensee, the State Fire Marshal, with the concurrence of the local authority having jurisdiction, may modify any portion of this section provided that any modification shall not be more restrictive than the requirements herein.~~

**Explanation:** Moved to WAC 212-17-21505(11). (From Committee)

### **NEW SECTION**

**WAC 212-17-21513 Stand use and construction.** (1) Fireworks may be sold from:

(a) A permanent structure which meets provisions of WAC 212-17-21505(3).

(b) Temporary, stable structures made from wood, metal, fiberglass or other material. Any temporary fireworks retail stand greater than 400 square feet shall meet the requirements of a permanent structure, except tents or canopies as defined in the Uniform Fire Code.

(c) Tents, canopies, or structures utilizing temporary membrane material. All tents, canopies or temporary membrane materials structures shall be made from fire retardant material or treated with a fire retardant as identified in the Uniform Fire Code. Any tent, canopy or temporary membrane material structure falling within the scope of the Uniform Fire Code shall comply with those requirements. When those requirements are in conflict with other provisions of these rules, the more restrictive provisions shall apply.

(2) Battery powered equipment, electrical equipment and electrical cords which are used in conjunction with a retail fireworks stand or a temporary storage structure or location must be listed by a recognized laboratory and used in accordance with that listing. If electrical power is supplied by an extension cord, the size of the cord, the length of the cord and the amperage and the voltage supplied shall be in compliance with the requirements of the National Electrical Code, current edition. The cord shall be protected as necessary from "drive-over" and other physical damage. No additional permits from a city or county or state official having jurisdiction shall be required for these temporary uses except as specified in subsection (5) of this section.

(3) All heating units shall be listed by a recognized testing laboratory and shall be used in accordance with the listing. Heating sources shall have "tip-over" and temperature overheat protection. All heating devices shall have sealed type elements (i.e., oil filled or water filled radiator type). Open flame heating devices are prohibited.

(4) Generators which use combustible fuel and which are at least twenty feet from the retail fireworks stand or the temporary fireworks storage structure shall be allowed. Generator fuel shall be limited to not more than 5 gallons and stored at least twenty feet from all stands.

(5) Compliance with the National Electrical Code, current edition, shall be required for all new, permanent

electrical installations, including temporary power drops, subject to possible permit fees.

(6) Retail sales of fireworks and other products which are holiday related shall be from buildings used for no other purpose.

~~(7) Upon request by a licensee, the State Fire Marshal, with the concurrence of the local authority having jurisdiction, may modify any portion of this section provided that any modification shall not be more restrictive than the requirements herein.~~

**Explanation:** Moved to WAC 212-17-21505(11). (From Committee)

### **NEW SECTION**

**WAC 212-17-21515 Operation of retail fireworks stands.** (1) A clear aisle or walkway not less than twenty-four inches wide shall be maintained inside the full length of the structure. Customers shall only be permitted inside a temporary retail fireworks stand that is greater than ~~three~~ four hundred square feet and which meets minimum exit requirements of the Uniform Building Code and Uniform Fire Code, as now or amended hereafter.

**Explanation:** Makes this section consistent with WAC 212-17-21505(3). (From Committee)

(2) Each temporary retail fireworks stand must have at least two exits, at least twenty-eight inches in width, located at opposite ends of the structure. Exits must remain unlocked and unobstructed during the hours of operation or when the stand is occupied.

(3) Sleeping inside a retail fireworks stand or an associated temporary fireworks storage facility is prohibited.

(4) The location of the nearest permanently mounted telephone must be posted inside the retail fireworks stand and persons working in the stand shall be informed of that location.

(5) The local emergency telephone number shall be conspicuously posted inside the retail fireworks stand.

(6) Each retail fireworks stand shall be equipped with two approved, pressurized two and one-half gallon water-type fire extinguishers.

(7) No open flames nor any type of open flame equipment shall be allowed in any retail fireworks stand.

(8) Retail fireworks stands shall be ~~locked~~ secured when unoccupied and not open for business if fireworks are kept in the structure during these times. Retail fireworks stands shall never be locked when occupied. The fireworks may be removed and transferred to a temporary storage structure or location approved as a part of the license and permit.

**Explanation:** The term "locked" is inappropriate for tents. This language meets the intent. (From Committee)

(9) At least one adult person, eighteen years of age or older shall be present at all times in every retail fireworks stand during the hours of sale to the public and shall be responsible for supervision of the retail fireworks stand and its operation. No person, other than customers, under the age of sixteen shall be allowed within a retail fireworks stand when it is open to the public. Fireworks, except for pre-packaged assortments, boxes, or similarly packaged containers of more than one item, whether of the same or

different kind, must be displayed in a manner which prevents the fireworks from being handled by the public or a customer without the direct intervention of the licensee or his or her representative who shall maintain visual contact.

**Explanation: This language is added to significantly reduce the possibility of accidental or intentional ignition of fireworks inside a retail fireworks stand.** (From Committee)

(10) Retail fireworks stands may be required to be inspected by the State Fire Marshal and/or the local jurisdiction issuing the permit prior to opening for business and other inspections may occur on other days as warranted but there shall be no additional charge for all such inspections.

**Explanation: This language is intended to alert the retail fireworks stand operator that an inspection may be required prior to opening for business.** (From Committee)

(11) In order to obtain return of a clean-up bond if required by the local authority having jurisdiction as a condition of permit, the clean up of debris associated with the retail fireworks activity and the removal of all structures authorized by the license and permit shall occur on or before the last day of the storage period specified in these rules.

(12) Fireworks retailers shall not knowingly sell fireworks to persons under the age of sixteen.

(a) A sign reading "No sale of fireworks to persons under the age of sixteen years. PHOTO ID REQUIRED" in letters at least two inches high, with a principal stroke of not less than one-half inch, on contrasting background, shall be conspicuously posted on the front of each retail fireworks stand.

(b) Sellers shall require proof of age by means of display of a driver's license or photo identification card showing date of birth issued by a public or private school, state, federal or foreign government. No other forms of identification shall be accepted.

~~(c) Failure to comply with the provisions of this section may result in the temporary suspension of the license or permit, revocation of the license or permit in the event of multiple infractions, and civil penalties consistent with the statute in effect at the time.~~

**Explanation: Deleted, redundant to WAC 212-17-21505(10).** (From Committee)

~~(13) Upon request by a licensee, the State Fire Marshal, with the concurrence of the local authority having jurisdiction, may modify any portion of this section provided that any modification shall not be more restrictive than the requirements herein.~~

**Explanation: Moved to WAC 212-17-21505(11).** (From Committee)

## **NEW SECTION**

**WAC 212-17-21517 Temporary fireworks storage associated with the retail fireworks stand operation.** (1) Temporary fireworks storage is not permanent fireworks storage. Temporary fireworks storage is defined as storage associated with retail fireworks sales and may only be from June 13 through July 31 and from December 12 through January 10 of the following year. Permanent fireworks

storage is associated with retail or wholesale fireworks activities when the period of time of storage is other than, or longer than that specified for temporary storage. Temporary fireworks storage shall be in accordance with this section. Permanent fireworks storage is subject to the Uniform Fire Code and the Uniform Building Code and local ordinances.

(2) Delivery of fireworks to a location, or storage of fireworks in a facility, not authorized by the license and permit is prohibited. If the approved storage location is outside the jurisdiction issuing the permit, the authority issuing the permit shall notify the appropriate authorities of the jurisdiction in which the storage is to be located.

**Explanation: This language was added to facilitate cross-jurisdictional notification of fireworks storage sites.** (From Committee)

(3) A temporary fireworks storage facility or a temporary fireworks storage location shall be authorized as a part of a license and permit if it meets the requirements specified herein.

(4) No open flames nor any type of open flame equipment shall be allowed in any temporary fireworks storage structure.

(5) Storage of fireworks authorized by a retail license and permit is legal only during the periods specified in this section.

(6) Fireworks may be stored

(a) in a locked or secured retail fireworks stand; or,

(b) in a locked or secured truck, container, trailer, other vehicle or anything similar which is not less than twenty feet from the retail fireworks stand during hours of retail sales; or,

(c) in a locked or secured truck, container, trailer, other vehicle or anything similar which is not less than twenty feet from an inhabited building where the term "inhabited building" is defined as in the Uniform Building Fire Code; or,

**Explanation: Identifies proper code reference.** (From Committee)

(d) in a magazine which meets the minimum standards of type 4 as prescribed by the Uniform Fire Code, and which is not less than ten feet from an inhabited building where the term "inhabited building" is defined as in the Uniform Building Fire Code; or,

**Explanation: Identifies proper code reference.** (From Committee)

(e) in a locked or secured metal or wooden garage, shed, barn or other accessory building, or anything similar which is not less than:

20 feet from an inhabited building for storage of fireworks for one or two retail stands, or:

30 feet from an inhabited building for storage of fireworks for three or more stands.

not less than twenty feet from an inhabited building where

**Explanation: Identifies the amount of storage in out buildings in relation to the required setback distance.** (From Committee)

The term "inhabited building" is defined as in the Uniform ~~Building~~ Fire Code.

**Explanation:** Identifies proper code reference. (From Committee)

(7) The local authority having jurisdiction may reduce the minimum separation requirements of this section provided that safety of life and property is not diminished.

(8) No cooking is permitted in a retail fireworks stand or in a temporary fireworks storage structure.

(9) Temporary fireworks storage structures may be inspected prior to use and other inspections may occur on other days as warranted. There shall be no additional charge for all such inspections.

~~(10) Upon request by a licensee, the State Fire Marshal, with the concurrence of the local authority having jurisdiction, may modify any portion of this section provided that any modification shall not be more restrictive than the requirements herein.~~

**Explanation:** Moved to WAC 212-17-21505(11). (From Committee)

### NEW SECTION

**WAC 212-17-21519 Cleanup.** (1) At the end of the legal selling period, all fireworks must remain in the retail fireworks stand, temporary storage location authorized by the retail permit or another location approved by the local authority having jurisdiction or his or her designee until returned to the suppliers from which they were obtained, or until transferred to an approved location.

(2) Cities and counties may require a clean-up bond, not to exceed five hundred dollars, as a condition of the permit, to ensure the removal of all structures and debris from the site.

(3) In order to obtain return of a clean-up bond, cleanup of debris associated with the retail fireworks activity and the removal of all temporary structures authorized by the license and permit shall be completed no later than 11:59 p.m., July 15 for the Fourth of July selling period or no later than 11:59 p.m., January 10 for the New Year's Eve selling season.

(4) Failure of the licensee to comply with subsection (3) of this section shall constitute forfeiture of the clean-up bond and the licensee shall be liable for any clean-up costs incurred by the city or county which exceed the amount of the bond.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 9, amended 1, repealed 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 9, amended 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 23, 1998  
Annette M. Sandberg  
Chief

**AMENDATORY SECTION** (Amending Order FPS 88-01, filed 3/31/88)

**WAC 212-17-185** (~~Retailers of fireworks—General~~)  
**License and permit.** (1) Persons desiring to engage in the business of selling fireworks at retail shall secure a license from the director of the Washington state patrol fire protection bureau.

(2) In addition to the state license, a permit must be obtained from the local governmental officials having jurisdiction.

(a) The application shall be made on forms provided by the director of fire protection and shall be accompanied by the license fee of ~~(ten)~~ forty dollars.

(b) License applications shall be made on or before ~~(June 10)~~ May 1 of the year for which the license is desired.

(c) The director of fire protection shall grant or deny the license within fifteen days of receipt of the application.

(d) Applicants are cautioned to first determine whether a local retail sales permit for fireworks can be obtained.

(3) A retailer's license to sell fireworks shall not authorize the licensee to engage in any other fireworks activity. Retailers are limited to selling only those fireworks which have been approved for sale to the public and appear on the list of approved fireworks published annually by the director of fire protection. A copy of the list shall be prominently posted at each retail outlet.

### NEW SECTION

**WAC 212-17-21503 Definitions.** (1) "Common fireworks" means those fireworks defined as common fireworks in RCW 70.77.136.

(2) "Following year" means the year immediately following the year in which a license or permit is issued.

(3) "License" means a license as defined in RCW 70.77.170.

(4) "Magazine" means a structure as defined in Section 214 of the Uniform Fire Code.

(5) "Membrane material" means a thin, flexible, impervious material capable of being supported by an air pressure of 1.5 inches of water column (373 Pa).

(6) "Permanent retail or wholesale structure" means an enclosure or shelter erected for a period of thirty days or more used for the sales, at retail or wholesale, of legal fireworks of any kind.

(7) "Permanent storage structure" means a building or other structure used to store any fireworks not authorized within the scope of a retail fireworks stand permit.

(8) "Permit" means a permit as defined in RCW 70.77.180.

(9) "Private way" means any privately owned driveway, lane, access way or similar parcel of land essentially unobstructed from the ground to the sky which serves as access from private property to a public road.

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(10) "Public road" means any street or alley essentially unobstructed from the ground to the sky which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

(11) "Recognized testing laboratory" means a nationally recognized testing laboratory approved by the state fire marshal.

(12) "Temperature overheat protection" means a device which immediately interrupts the power to the heating element of a portable heating unit when the portable heating unit exceeds its designed operating temperature.

(13) "Temporary power drop" means an electrical service connection to a temporary retail fireworks stand.

(14) "Retail fireworks stand" means a structure used for the retail sales of common fireworks.

(15) "Temporary storage structure" means a building or other structure used for storage of common fireworks directly related to a retail fireworks stand and authorized within the scope of a retail fireworks stand permit.

(16) "Temporary structure" means an enclosure or shelter erected for a period of less than thirty days and not otherwise defined in the Uniform Fire Code as a tent or canopy.

(17) "Tip-over protection" means a device which immediately interrupts the power to the heating element of a portable heating unit when the portable heating unit is tipped or tilted more than forty-five degrees from its designed operating position.

(18) "Uniform Building Code" means the edition currently adopted by the state of Washington.

(19) "Uniform Fire Code" means the edition currently adopted by the state of Washington.

#### NEW SECTION

**WAC 212-17-21505 General provisions.** (1) The state of Washington hereby fully occupies the entire field of regulation relating to the construction and use of temporary and permanent structures for the retail sale and storage of fireworks including: The location of and areas surrounding, the operation of and the cleanup after the use of said structures, pursuant to RCW 70.77.270.

(2) The state of Washington hereby preempts the authority of local jurisdictions with respect to the retail sale and associated storage of common fireworks from temporary structures. This rule constitutes the entire and exclusive authority for regulation of all such matters. Subject to the limitations imposed by chapter 70.77 RCW, a city or county may ban fireworks; or a city or county may restrict the dates of sale, purchase, possession and use of fireworks; or a city or county may restrict the types of fireworks that may be sold and purchased within its boundaries. If a city or county allows the sale of fireworks classified as common fireworks from temporary structures these rules preempt that city's or that county's authority to enact or enforce any other regulations.

(3) Except as prescribed by this rule, the use of permanent structures or temporary structures over four hundred square feet for fireworks sales and storage shall be subject to the provisions of the Uniform Fire Code and the Uniform Building Code, and local ordinances.

(4) The use of temporary structures for the temporary sale or storage of common fireworks are exempt from the Uniform Building Code, Uniform Fire Code and local ordinances except that where a city or county ordinance regulates the sale or use of fireworks as a part of that city's or that county's building code or fire code, those provisions of that county's or that city's building code or fire code which are not in conflict with this rule are not hereby preempted or affected.

(5) Each license and permit shall be issued and shall remain valid and effective for the thirteen-month period beginning on January 1 of the year in which application is made and ending January 31 of the following year.

(6) Only Class C common fireworks, obtained from state-licensed wholesalers, not otherwise prohibited by chapter 70.77 RCW or local ordinance, and holiday related products incidental but related to these products, may be sold in retail fireworks stands.

(7) Except as limited by local ordinance, fireworks may be sold from 12:00 noon on June 28 through 12:00 noon on July 6. Fireworks may not be sold between the hours of 11:00 p.m. and 9:00 a.m. from June 28 through July 3. Fireworks may not be sold from 12:00 midnight on July 4 through 9:00 a.m. on July 5. Fireworks may not be sold from 11:00 p.m. on July 5 through 9:00 a.m. on July 6.

(8) Except as limited by local ordinance, fireworks may be sold from 6:00 p.m. on December 31 through 1:00 a.m. on January 1 of the following year.

(9) Licensees shall familiarize all persons working in a retail fireworks stand with the provisions of these rules.

(10) Failure to comply at any time with the provisions of this rule or any other applicable regulation shall constitute a violation of chapter 70.77 RCW and may result in the temporary suspension or immediate revocation of the license or permit, closure of the fireworks sales or storage structure, the seizure and/or forfeiture of some or all of the fireworks, and other criminal penalties as specified by law.

(11) The local authority having jurisdiction, with the concurrence of the state fire marshal, is authorized to modify any of the provisions of WAC 212-17-21509, 212-17-21511, 212-17-21513, 212-17-21515, and 212-17-21517 upon written application by the licensee or a duly authorized representative, where there are practical difficulties in the way of carrying out the provisions of these sections, provided that the spirit of the rule shall be complied with, public safety secured and substantial justice done. The particulars of such modification shall be registered with the state fire marshal.

#### NEW SECTION

**WAC 212-17-21507 Transportation.** When transporting fireworks, licensees shall comply with all federal, state and local transportation requirements, provided that, upon request of the licensee, the local authority having jurisdiction may waive or modify the local transportation requirements. Nothing in these rules shall restrict the right of any person to transport, in a private vehicle, fireworks which have been legally purchased from a retail fireworks licensee.



**NEW SECTION**

**WAC 212-17-21509 Location.** (1) Activities or uses subject to this rule shall not be limited in location except where such activities or uses are prohibited or controlled by local development regulation, traffic safety or road construction standards.

(2) Temporary retail fireworks stands shall not be located more than one hundred fifty feet from a private way, fire department access road, public road, street or highway as measured by an approved route around the exterior of the stand. The minimum requirements for a private way shall be

determined by the local authority having jurisdiction, but shall not exceed the requirements of locally adopted street, road and access standards.

(3) Any two retail fireworks stands shall be at least one hundred feet apart or shall be separated by a road, street or highway not less than thirty feet in width.

(4) Retail fireworks stands shall be located as required by Table 212-17-21509 in this section. The minimum required area surrounding the stand shall be marked or flagged, except that flagging and marking shall not block a sidewalk or pedestrian pathway. Flagging need not exceed twenty feet in any direction.

Retail Fireworks Stands - Minimum Clearances						
	Buildings	Combustibles	Property Line	Parking	Motor Vehicle Traffic PUBLIC ROAD*	Motor Vehicle Traffic PRIVATE WAY
BACK OF STAND	20 FT.	20 FT.	5 FT.	20 FT.	20 FT.	5 FT.
SIDE OF STAND	20 FT.	20 FT.	5 FT.	20 FT.	20 FT.	5 FT.
FRONT OF STAND	40 FT. 20 FT.**	40 FT. 20 FT.**	20 FT.	20 FT.	20 FT.	20 FT.

NOTE: Clearance distances are not cumulative

\*Measured from the outer edge of the nearest traffic lane.

\*\* If stand is equipped with 135° fusible links which will automatically close all sales doors in case of fire, or is equipped with a wire-mesh screen with openings of not more than one inch which covers not less than 90% of all sales openings.

(5) Retail fireworks stands shall not be located closer than one hundred feet from any motor vehicle dispensing station, retail propane dispensing station, flammable liquid storage, or combustible liquid storage. Retail fireworks stands shall not be located closer than three hundred feet from any bulk storage of flammable or combustible liquid or gas, including bulk dispensing areas.

Exception:

1. Fuel for generators as allowed by WAC 212-17-21513(4).
2. Fuel within the tanks of motor vehicles.

**NEW SECTION**

**WAC 212-17-21511 Area around the retail fireworks stand.** (1) The minimum areas around the retail fireworks stand specified in WAC 212-17-21509 shall be kept free of accumulation of dry grass, dry brush and combustible debris. No parking shall be permitted within this minimum area.

(2) No motor vehicle or trailer may be parked within twenty feet of a retail fireworks stand except when delivering, loading or unloading fireworks.

(3) Fireworks shall not be discharged within one hundred feet of a retail fireworks stand. Signs reading "NO FIREWORKS DISCHARGE WITHIN 100 FEET" in letters at least two inches high, with a principal stroke of not less than one-half inch, on contrasting background, shall be conspicuously posted on all four sides of the stand.

(4) No smoking shall be allowed within the retail fireworks stand or within the minimum flagged off area. Signs reading "NO SMOKING WITHIN 20 FEET" in letters at least two inches high, with principal stroke of not less than one-half inch, on a contrasting background, shall be conspicuously posted on all four sides of the stand.

**NEW SECTION**

**WAC 212-17-21513 Stand use and construction.** (1) Fireworks may be sold from:

(a) A permanent structure which meets provisions of WAC 212-17-21505(3).

(b) Temporary, stable structures made from wood, metal, fiberglass or other material. Any temporary fireworks retail stand greater than four hundred square feet shall meet the requirements of a permanent structure, except tents or canopies as defined in the Uniform Fire Code.

(c) Tents, canopies, or structures utilizing temporary membrane material. All tents, canopies or temporary membrane materials structures shall be made from fire retardant material or treated with a fire retardant as identified in the Uniform Fire Code. Any tent, canopy or temporary membrane material structure falling within the scope of the Uniform Fire Code shall comply with those requirements. When those requirements are in conflict with other provisions of these rules, the more restrictive provisions shall apply.

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(2) Battery powered equipment, electrical equipment and electrical cords which are used in conjunction with a retail fireworks stand or a temporary storage structure or location must be listed by a recognized laboratory and used in accordance with that listing. If electrical power is supplied by an extension cord, the size of the cord, the length of the cord and the amperage and the voltage supplied shall be in compliance with the requirements of the National Electrical Code, current edition. The cord shall be protected as necessary from "drive-over" and other physical damage. No additional permits from a city or county or state official having jurisdiction shall be required for these temporary uses except as specified in subsection (5) of this section.

(3) All heating units shall be listed by a recognized testing laboratory and shall be used in accordance with the listing. Heating sources shall have "tip-over" and temperature overheat protection. All heating devices shall have sealed type elements (i.e., oil filled or water filled radiator type). Open flame heating devices are prohibited.

(4) Generators which use combustible fuel and which are at least twenty feet from the retail fireworks stand or the temporary fireworks storage structure shall be allowed. Generator fuel shall be limited to not more than five gallons and stored at least twenty feet from all stands.

(5) Compliance with the National Electrical Code, current edition, shall be required for all new, permanent electrical installations, including temporary power drops, subject to possible permit fees.

(6) Retail sales of fireworks and other products which are holiday related shall be from buildings used for no other purpose.

#### NEW SECTION

**WAC 212-17-21515 Operation of retail fireworks stands.** (1) A clear aisle or walkway not less than twenty-four inches wide shall be maintained inside the full length of the structure. Customers shall only be permitted inside a temporary retail fireworks stand that is greater than four hundred square feet and which meets minimum exit requirements of the Uniform Building Code and Uniform Fire Code, as now or amended hereafter.

(2) Each temporary retail fireworks stand must have at least two exits, at least twenty-eight inches in width, located at opposite ends of the structure. Exits must remain unlocked and unobstructed during the hours of operation or when the stand is occupied.

(3) Sleeping inside a retail fireworks stand or an associated temporary fireworks storage facility is prohibited.

(4) The location of the nearest permanently mounted telephone must be posted inside the retail fireworks stand and persons working in the stand shall be informed of that location.

(5) The local emergency telephone number shall be conspicuously posted inside the retail fireworks stand.

(6) Each retail fireworks stand shall be equipped with two approved, pressurized two and one-half gallon water-type fire extinguishers.

(7) No open flames nor any type of open flame equipment shall be allowed in any retail fireworks stand.

(8) Retail fireworks stands shall be secured when unoccupied and not open for business if fireworks are kept

in the structure during these times. Retail fireworks stands shall never be locked when occupied. The fireworks may be removed and transferred to a temporary storage structure or location approved as a part of the license and permit.

(9) At least one adult person, eighteen years of age or older shall be present at all times in every retail fireworks stand during the hours of sale to the public and shall be responsible for supervision of the retail fireworks stand and its operation. No person, other than customers, under the age of sixteen shall be allowed within a retail fireworks stand when it is open to the public. Fireworks, except for prepackaged assortments, boxes, or similarly packaged containers of more than one item, whether of the same or different kind, must be displayed in a manner which prevents the fireworks from being handled by the public or a customer without the direct intervention of the licensee or his or her representative who shall maintain visual contact.

(10) Retail fireworks stands may be required to be inspected by the state fire marshal and/or the local jurisdiction issuing the permit prior to opening for business and other inspections may occur on other days as warranted but there shall be no additional charge for all such inspections.

(11) In order to obtain return of a clean-up bond if required by the local authority having jurisdiction as a condition of permit, the cleanup of debris associated with the retail fireworks activity and the removal of all structures authorized by the license and permit shall occur on or before the last day of the storage period specified in these rules.

(12) Fireworks retailers shall not knowingly sell fireworks to persons under the age of sixteen.

(a) A sign reading "no sale of fireworks to persons under the age of sixteen years. PHOTO ID REQUIRED" in letters at least two inches high, with a principal stroke of not less than one-half inch, on contrasting background, shall be conspicuously posted on the front of each retail fireworks stand.

(b) Sellers shall require proof of age by means of display of a driver's license or photo identification card showing date of birth issued by a public or private school, state, federal or foreign government. No other forms of identification shall be accepted.

#### NEW SECTION

**WAC 212-17-21517 Temporary fireworks storage associated with the retail fireworks stand operation.** (1) Temporary fireworks storage is not permanent fireworks storage. Temporary fireworks storage is defined as storage associated with retail fireworks sales and may only be from June 13 through July 31 and from December 12 through January 10 of the following year. Permanent fireworks storage is associated with retail or wholesale fireworks activities when the period of time of storage is other than, or longer than that specified for temporary storage. Temporary fireworks storage shall be in accordance with this section. Permanent fireworks storage is subject to the Uniform Fire Code and the Uniform Building Code and local ordinances.

(2) Delivery of fireworks to a location, or storage of fireworks in a facility, not authorized by the license and permit is prohibited. If the approved storage location is outside the jurisdiction issuing the permit, the authority

issuing the permit shall notify the appropriate authorities of the jurisdiction in which the storage is to be located.

(3) A temporary fireworks storage facility or a temporary fireworks storage location shall be authorized as a part of a license and permit if it meets the requirements specified herein.

(4) No open flames nor any type of open flame equipment shall be allowed in any temporary fireworks storage structure.

(5) Storage of fireworks authorized by a retail license and permit is legal only during the periods specified in this section.

(6) Fireworks may be stored:

(a) In a locked or secured retail fireworks stand; or

(b) In a locked or secured truck, container, trailer, other vehicle or anything similar which is not less than twenty feet from the retail fireworks stand during hours of retail sales; or

(c) In a locked or secured truck, container, trailer, other vehicle or anything similar which is not less than twenty feet from an inhabited building where the term "inhabited building" is defined as in the Uniform Fire Code; or

(d) In a magazine which meets the minimum standards of Type 4 as prescribed by the Uniform Fire Code, and which is not less than ten feet from an inhabited building where the term "inhabited building" is defined as in the Uniform Fire Code; or

(e) In a locked or secured metal or wooden garage, shed, barn or other accessory building, or anything similar which is not less than:

20 feet from an inhabited building for storage of fireworks for one or two retail stands; or

30 feet from an inhabited building for storage of fireworks for three or more stands.

The term "inhabited building" is defined as in the Uniform Fire Code.

(7) The local authority having jurisdiction may reduce the minimum separation requirements of this section provided that safety of life and property is not diminished.

(8) No cooking is permitted in a retail fireworks stand or in a temporary fireworks storage structure.

(9) Temporary fireworks storage structures may be inspected prior to use and other inspections may occur on other days as warranted. There shall be no additional charge for all such inspections.

#### NEW SECTION

**WAC 212-17-21519 Cleanup.** (1) At the end of the legal selling period, all fireworks must remain in the retail fireworks stand, temporary storage location authorized by the retail permit or another location approved by the local authority having jurisdiction or his or her designee until returned to the suppliers from which they were obtained, or until transferred to an approved location.

(2) Cities and counties may require a clean-up bond, not to exceed five hundred dollars, as a condition of the permit, to ensure the removal of all structures and debris from the site.

(3) In order to obtain return of a clean-up bond, cleanup of debris associated with the retail fireworks activity and the removal of all temporary structures authorized by the license

and permit shall be completed no later than 11:59 p.m., July 15 for the Fourth of July selling period or no later than 11:59 p.m., January 10 for the New Year's Eve selling season.

(4) Failure of the licensee to comply with subsection (3) of this section shall constitute forfeiture of the clean-up bond and the licensee shall be liable for any clean-up costs incurred by the city or county which exceed the amount of the bond.

#### **WSR 98-04-011**

#### **PERMANENT RULES**

#### **INSURANCE COMMISSIONER'S OFFICE**

[Insurance Commissioner Matter No. R 97-2—Filed January 23, 1998, 3:27 p.m., effective March 1, 1998]

Date of Adoption: January 22, 1998.

Purpose: Adopt standards for filing of rates and forms for health care service contractors and health maintenance organizations to provide consistent and up-to-date guidelines for filing contract forms and rate schedules and to specify the standards to be used to determine when proposed premiums are not unreasonable in relation to benefits.

Citation of Existing Rules Affected by this Order: Repealing WAC 284-44-100, 284-44-110, 284-44-120, 284-44-130, 284-44-140, 284-44-150, 284-44-160, 284-44-190, 284-44-200, 284-44-210, and 284-44-220.

Statutory Authority for Adoption: RCW 48.02.060, 48.44.050, and 48.46.200.

Other Authority: RCW 48.44.020 (2)(d), 48.44.022, 48.44.023, 48.46.060 (3)(d) and (5), 48.46.064, and 48.46.066.

Adopted under notice filed as WSR 98-02-063 on January 7, 1998.

Changes Other than Editing from Proposed to Adopted Version: Definitions in WAC 284-43-910 (14) and (17) were amended for clarity. Changes were made in WAC 284-43-915 (3)(b) and (c) to increase clarity. WAC 284-43-920(4) was added to establish a method for carriers to receive notice of the commissioner's receipt of a filing. WAC 284-43-930(2) was changed to reduce perceived ambiguity. WAC 284-43-930 (2)(a)(i), (ii), and (iii) were changed to increase reporting flexibility for carriers and to reduce the costs and burden of filing. WAC 284-43-930(3) was changed to reduce possible ambiguity. WAC 284-43-930(5) was changed to relieve possible filing burdens. WAC 284-43-930 was amended to allow the commissioner to modify or waive filing requirements in unique circumstances or when they would cause an extraordinary administrative burden. The effective date of these rules was changed to March 1, 1998.

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 12, amended 0, repealed 11.

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Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 12, amended 0, repealed 11.

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 12, amended 0, repealed 11.

Effective Date of Rule: March 1, 1998.

January 22, 1998  
Deborah Senn  
Insurance Commissioner

## SUBCHAPTER I—HEALTH PLAN RATES

### NEW SECTION

**WAC 284-43-900 Authority and purpose.** This subchapter is adopted under the general authority of RCW 48.02.060, 48.44.050, and 48.46.200. Its purpose is to provide guidelines for the implementation of RCW 48.44.020 (2)(d), 48.44.022, 48.44.023, 48.44.040, 48.46.060 (3)(d), 48.46.060(5), 48.46.064, and 48.46.066 as to the filing of contract forms by health care service contractors and health maintenance organizations and the calculations and evaluations of premium rates for these contracts.

### NEW SECTION

**WAC 284-43-905 Applicability and scope.** This subchapter applies to health benefit plans as defined in RCW 48.43.005(9), and contracts for limited health care services as defined in RCW 48.44.035(1), offered by health care service contractors and health maintenance organizations registered in this state under chapter 48.44 or 48.46 RCW. It applies to such plans purchased directly by individuals, small employers, and large employers, or other organizations.

### NEW SECTION

**WAC 284-43-910 Definitions.** For the purpose of this subchapter:

- (1) "Adjusted earned premium" means the amount of "earned premium" the "carrier" would have earned had the "carrier" charged current "premium rates" for all applicable "plans."
- (2) "Amount charged" means all sums charged, received, or deposited as consideration for a "contract" or "group contract" or the continuance thereof. An assessment or a membership, contract, survey, inspection, service, or similar fee or charge made by the carrier in consideration for a "contract" or "group contract" is considered part of the "amount charged."
- (3) "Annualized earned premium" means the "earned premium" that would be earned in a twelve-month period if earned at the same rate as during the applicable period.
- (4) "Anticipated loss ratio" means the "projected incurred claims" divided by the "projected earned premium."
- (5) "Base rate" means the amount charged for a specific "plan," expressed as a monthly amount per "covered person or subscriber," prior to any adjustments for geographic area, age, family size, wellness activities, tenure, or any other factors as may be allowed.

(6) "Capitation expenses" means the amount paid to a provider on a per "covered person" basis, or as part of risk-sharing provisions, for the coverage of specified health care services.

(7) "Carrier" means a health care service contractor or health maintenance organization.

(8) "Certificate" means the statement of coverage document furnished "subscribers" covered under a "group contract."

(9) "Claim reserves" means the "claims" that have been reported but not paid plus the "claims" that have not been reported but may be reasonably expected.

(10) "Claims" means the cost to the "carrier" of health care services provided to a "covered person" or paid to or on behalf of the "covered person" in accordance with the terms of a "plan." This includes "capitation payments" or other similar payments made to "providers" for the purpose of paying for health care services for a "covered person."

(11) "Community rate" means the weighted average of all "premium rates" within a filing with the weights determined according to current enrollment.

(12) "Contract" means an agreement to provide health care services or pay health care costs for or on behalf of a "subscriber" or group of "subscribers" and such eligible dependents as may be included therein.

(13) "Contract form" means the prototype of a "contract" and any associated riders and endorsements filed with the commissioner by a health care service contractor or health maintenance organization.

(14) "Contribution to surplus, contingency charges, or risk charges" means the portion of the "projected earned premium" not associated directly with "claims" or "expenses," that in the case of investor owned companies, provide the carrier with a fair rate of return on investor-supplied capital commensurate with the risk assumed by the overall business of the carrier. In the case of a not-for-profit carrier, these are the portion of the "projected earned premium" that provide assurance of the carrier's solvency.

(15) "Covered persons" means all "subscribers" and their eligible dependents.

(16) "Current community rate" means the weighted average of the "community rates" at the renewal or initial effective dates of each plan for the year immediately preceding the renewal period, with weights determined according to current enrollment.

(17) "Current enrollment" means the monthly average number and demographic make-up of the "covered persons" for the applicable contracts during the most recent twelve months for which information is available to the carrier.

(18) "Earned premium" means the "amount charged" plus any rate credits or recoupments, applicable to an accounting period whether received before, during, or after such period.

(19) "Expenses" means costs that include but are not limited to the following:

- (a) Claim adjudication costs;
- (b) Utilization management costs if distinguishable from "claims";
- (c) Home office and field overhead;
- (d) Acquisition and selling costs;
- (e) Taxes; and
- (f) All other costs except "claims."

(20) "Experience period" means the most recent twelve-month period from which the carrier accumulates the data to support a filing.

(21) "Extraordinary expenses" means "expenses" resulting from occurrences atypical of the normal business activities of the "carrier" that are not expected to recur regularly in the near future.

(22) "Group contract" or "group plan" means an agreement issued to an employer, corporation, labor union, association, trust, or other organization to provide health care services to employees or members of such entities and the dependents of such employees or members.

(23) "Incurred claims" means "claims" paid during the applicable period plus the "claim reserves" as of the end of the applicable period minus the "claim reserves" as of the beginning of the applicable period. Alternatively, for the purpose of providing monthly data or trend analysis, "incurred claims" may be defined as the current best estimate of the "claims" for services provided during the applicable period.

(24) "Individual contract" means a "contract" issued to and covering an individual. An "individual contract" may include dependents.

(25) "Investment earnings" means the income, dividends, and realized capital gains earned on an asset.

(26) "Loss ratio" means "incurred claims" as a percentage of "earned premiums" before any deductions.

(27) "Medical care component of the consumer price index for all urban consumers" means the similarly named figure published monthly by the United States Bureau of Labor Statistics.

(28) "Net worth or reserves and unassigned funds" means the excess of assets over liabilities on a statutory basis.

(29) "Plan" means a "contract" that is a health benefits plan as defined in RCW 48.43.005(9) or a "contract" for limited health care services as defined in RCW 48.44.035(1).

(30) "Premium rate" means the "amount charged" per "subscriber" or "covered person" obtained by adjusting the "base rate" for geographic area, family size, age, wellness activities, tenure, or any other factors as may be allowed.

(31) "Projected earned premium" means the "earned premium" that would be derived from applying the proposed "premium rates" to the current enrollment.

(32) "Projected incurred claims" means the estimate of "incurred claims" for the rate renewal period based on the current enrollment.

(33) "Proposed community rate" means the weighted average of the "community rates" at the renewal dates of each plan for the renewal period, with weights determined according to current enrollment.

(34) "Provider" means any health professional, hospital, or other institution, organization, prescription drug vendor, or person that furnishes health care services and is licensed or otherwise authorized to furnish such services.

(35) "Rate renewal period" means the period for which the proposed "premium rates" are intended to remain in effect.

(36) "Rate schedule" means the schedule of all "base rates" for "plans" included in the filing.

(37) "Requested increase in the community rate" means the amount, expressed as a percentage, by which the "pro-

posed community rate" exceeds the "current community rate."

(38) "Service type" means the category of service for which "claims" are paid, such as hospital, professional, dental, prescription drug, or other.

(39) "Small group contracts" or "small group plans" means the class of "group contracts" issued to small employers with no more than fifty eligible employees, including sole proprietors. "Small employer" is defined at RCW 48.43.005(13).

(40) "Staffing data" means statistics on the number of "providers" and associated compensation required to provide a fixed number of services or provide services to a fixed number of "covered persons."

(41) "Subscriber" means a person on whose behalf a "contract" or "certificate" is issued.

(42) "Unit cost data" means statistics on the cost per health care service provided to a "covered person."

(43) "Utilization data" means statistics on the number of services used by a fixed number of "covered persons" over a fixed length of time.

NEW SECTION

**WAC 284-43-915 Demonstration that benefits provided are not reasonable in relation to the amount charged for a contract per RCW 48.44.020 (2)(d) and 48.46.060 (3)(d).** In addition to the requirements of RCW 48.44.022, 48.44.023, 48.46.064, and 48.46.066, where applicable:

(1) For individual and small group plans, benefits shall be found not to be unreasonable in relation to the amount charged if one or more of the following is true:

(a) The requested increase in the community rate is zero percent or less and the anticipated loss ratio is seventy percent or more; or

(b) The anticipated loss ratio is eighty percent or more and the requested increase in the community rate is not more than the applicable rate in the following table.

CPI*	Maximum Rate Increase
7% or less	CPI*+3%
7% to 10%	10%
10% or more	CPI*

\* CPI refers to the rate of increase in the medical care component of the consumer price index for all urban consumers.

(2) For group plans other than small group plans, benefits shall be found not to be unreasonable in relation to amount charged if the anticipated loss ratio is eighty percent or more.

(3) If the conditions of subsection (1) or (2) of this section are not met, benefits shall be found not to be unreasonable if the projected earned premium for the rate renewal period is equal to the following:

(a) An actuarially sound estimate of incurred claims associated with the filing for the rate renewal period, where the actuarial estimate of claims shall recognize, as applicable, the savings and costs associated with managed care provisions of the plans included in the filing; plus

(b) An actuarially sound estimate of prudently incurred expenses associated with the plans included in the filing for the rate renewal period, where the estimate shall be based on

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an equitable and consistent expense allocation or assignment methodology; plus

(c) An actuarially sound provision for contribution to surplus, contingency charges, or risk charges, where the justification shall recognize the carrier's investment earnings on assets other than those related to claim reserves or other similar liabilities; minus

(d) An actuarially sound estimate of the forecasted investment earnings on assets related to claim reserves or other similar liabilities for the plans included in the filing for the rate renewal period.

(4) The contribution to surplus, contingency charges, or risk charges in subsection (3)(c) of this section, shall not be required to be less than zero.

(5) For the purposes of this section, the rate of increase in the medical care component of the consumer price index for all urban consumers shall be measured by comparing the index for the month immediately preceding the month in which the filing is submitted to the index for the corresponding calendar month for the prior year.

#### NEW SECTION

##### **WAC 284-43-920 When a carrier is required to file.**

(1) Every contract form and any modification thereof, and every rate schedule and any change thereof shall be filed with the commissioner:

(a) Before being offered for sale to the public; and

(b) Within thirty days after the end of an eighteen-month period during which a previous filing has remained unchanged for such period, including contract forms filed prior to the effective date of this regulation.

(2) Filings of negotiated contract forms, and applicable rate schedules, that are placed into effect at time of negotiation or that have a retroactive effective date are not required to be filed in accordance with subsection (1)(a) and (b) of this section, but shall be filed within thirty working days after the earlier of:

(a) The date group contract negotiations are completed; or

(b) The date renewal premiums are implemented.

(3) An explanation for any filing delayed beyond the thirty-day period as described in subsection (2) of this section shall be given on the filing document as set forth in WAC 284-43-950.

(4) If a return copy of the filing is desired, it shall be submitted in duplicate. The duplicate copy will be stamped by the commissioner to indicate receipt of the filing and will be returned to the sender if a return self-addressed envelope is enclosed with the filing.

#### NEW SECTION

##### **WAC 284-43-925 General contents of all filings.**

Each filing required to be made pursuant to WAC 284-43-920 shall be submitted with the filing transmittal form prescribed by and available from the commissioner. The form will include the name of the filing entity, its address, identification number, the type of filing being submitted, the form name or group name and number, and other relevant information. Filings shall also include the information required on the filing summary set forth in WAC 284-43-945 for individual and small group plans and rate schedules or as

set forth in WAC 284-43-950 for group plans and rate schedules other than those for small groups.

#### NEW SECTION

**WAC 284-43-930 Contents of individual and small group filings.** Under RCW 48.44.022(3) and 48.46.064(3) the experience of all individual plans shall be pooled; and under RCW 48.44.023(3)(i) and 48.46.066(3)(i) the experience of all small group plans shall be pooled. Filings for individual plans shall include base rates for all individual plans and filings for small group plans shall include base rates for all small group plans. Each individual and small group filing shall include all of the following information and documents:

(1) An actuarially sound estimate of incurred claims. Experience data, assumptions, and justifications of the carrier's projected incurred claims shall be provided in a manner consistent with the carrier's rate-making methodology and incorporate the following elements:

(a) A brief description of the carrier's rate-making methodology, including identification of the data used and the kinds of assumptions and projections made.

(b) The number of subscribers by family size, or covered persons for the plans included in the filing. These figures shall be shown for each month or quarter of the experience period and the prior two periods if not included in previous filings. This data shall be presented in aggregate for the plans included in the filing and in aggregate for all of the carrier's plans.

(c) Earned premium for each month or quarter of the experience period and the prior two periods if not included in previous filings, for the plans included in the filing.

(d) An estimate of the adjusted earned premium for each month or quarter of the experience period and prior two periods for the plans included in the filing.

(e) Claims data for each month or quarter of the experience period and the prior two periods. Examples of claims data are, incurred claims, capitation payments, utilization data, unit cost data, and staffing data. The specific data elements included in the filing shall be consistent with the carrier's rate-making methodology.

(f) Documentation and justification of any adjustments made to the experience data.

(g) Documentation and justification of the factors and methods used to forecast incurred claims.

(2) An actuarially sound estimate of prudently incurred expenses. Experience data, assumptions, and justifications shall be provided by the carrier as follows:

(a) A breakdown of the carrier's expenses allocated or assigned to the plans included in the filing for the experience period or for the period corresponding to the most recent "annual statement";

(i) Health care service contractors shall provide an expense breakdown at least as detailed as the annual statement schedule "Underwriting and Investment Exhibit, Part 3, Analysis of Expenses" as revised from time to time;

(ii) Health maintenance organizations shall provide an expense breakdown at least as detailed as the "Annual Statement, Report #2: Statement of Revenues, Expenses and Net Worth," for administrative expenses as revised from time to time;

(iii) The allocation and assignment methodology used in (a)(i) or (ii) of this subsection may be based on readily available data and easily applied calculations;

(b) Identification of any experience period expenses that are extraordinary; and

(c) Documentation and justification of the assignment or allocation of expenses to the plans included in the filing; and

(d) Documentation and justification of forecasted changes in expenses.

(3) An actuarially sound provision for contribution to surplus, contingency charges, or risk charges. Assumptions and justifications shall be provided by a carrier as follows:

(a) The methodology, justification, and calculations used to determine the contribution to surplus, contingency charges, or risk charges included in the proposed base rates; and

(b) The carrier's net worth or reserves and unassigned surplus at the beginning of the experience period and at the end of the experience period.

(4) An actuarially sound estimate of forecasted investment earnings on assets related to claim reserves or other similar liabilities. The carrier shall include documentation and justification of forecasted investment earnings identified in dollars, and as a percentage of total premiums and the amount credited to the plans included in the filing.

(5) Adjustment of the base rate. Experience data, assumptions, justifications, and methodology descriptions shall be provided that include:

(a) Justifications for adjustments to the base rate, supported by data if appropriate, attributable to geographic region, age, family size, use of wellness activities, and tenure discounts;

(b) Justifications, supported by data if appropriate, of any other factors or circumstances used to adjust the base rates; and

(c) Description of the methodology used to adjust the base rate to obtain the premium rate for a specific individual or group, which is detailed enough to allow the commissioner to replicate the calculation of premium rates if given the necessary data.

(6) Actuarial certification. Certification by an actuary, as defined by WAC 284-05-060(1), that the benefits and services to be provided are reasonable in relation to the amount charged.

(7) The requirements of subsections (1) through (6) of this section may be waived or modified upon the finding by the commissioner that a plan contains or involves unique provisions or circumstances and that the requirements represent an extraordinary administrative burden on the carrier. An example of such a situation could include a plan offered by a relatively small carrier, where such plan has limited benefits and is designed to generate an unusually small premium.

#### NEW SECTION

**WAC 284-43-935 Experience records.** (1) Every carrier shall maintain for each plan for the five most recent years, records of:

(a) Incurred claims;

(b) Earned premiums; and

(c) Expenses.

(2) Such records shall include data for rider and endorsement forms that are used with the contract forms. Separate data may be maintained for each rider or endorsement form as appropriate. Experience under contract forms that provide substantially similar coverage may be combined for recordkeeping purposes.

#### NEW SECTION

**WAC 284-43-940 Evaluating experience data.** In determining the credibility and appropriateness of experience data, consideration shall be given to all relevant factors, including:

(1) Statistical credibility of the amount charged and services and benefits paid, such as low exposure, low loss frequency, and recoupment;

(2) Actual and projected trends relative to changes in medical costs and changes in utilization;

(3) The mix of business by risk classification; and

(4) Adverse selection or lapse factors reasonably expected in connection with revisions to plan provisions, services, benefits, and amount charged.

NEW SECTION

WAC 284-43-945 Summary for individual and small group contract filings.

**INDIVIDUAL AND SMALL GROUP FILING SUMMARY**

Carrier Name	_____
Address	_____
	_____
Carrier Identification Number	_____

Rate Renewal Period:	From _____	To _____
Date Submitted:	_____	
Type of Filing:	Individual Plans <input type="checkbox"/>	Group Plans <input type="checkbox"/>

**Proposed Rate Summary**

Current community rate	_____	per month
Proposed community rate	_____	per month
Percentage change	_____	%
Portion of carrier's total enrollment affected	_____	%
Portion of carrier's total premium revenue affected	_____	%

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**Components of Proposed Community Rate**

	Dollars Per Month	% of Total
a) Claims		
b) Expenses		
c) Contribution to surplus, contingency charges, or risk charges		
d) Investment earnings		
e) Total (a + b + c - d)		

**Summary of Pooled Experience**

	Experience Period		First Prior Period		Second Prior Period	
	From	To	From	To	From	To
Member Months						
Earned Premium						
Paid Claims						
Beginning Claim Reserve						
Ending Claim Reserve						
Incurred Claims						
Expenses						
Gain/Loss						
Contribution to Corporate Surplus						
Loss Ratio Percentage						

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### General Information

1. Trend Factor Summary

Type of Service	Annual Trend Assumed	Portion of Claim Dollars
Hospital	%	%
Professional	%	%
Prescription Drugs	%	%
Dental	%	%
Other	%	%

2. List the effective date and rate of increase for all rate changes in the past three rate periods.

1) \_\_\_\_\_ 2) \_\_\_\_\_ 3) \_\_\_\_\_  
           Date           %                   Date           %                   Date           %

3. Since the previous filing, have any changes been made to the factors or methodology for adjusting base rates?

- Geographic Area            Yes            No
- Family Size                Yes            No
- Age                          Yes            No
- Wellness Activities        Yes            No
- Tenure Discounts          Yes            No
- Other (specify)            Yes            No

4. Attach a table showing the base rate for each plan affected by this filing.

5. Attach comments or additional information.

6. Preparers Information

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

PERMANENT

**NEW SECTION**

**WAC 284-43-950 Summary for group contract filings other than small group contract filings.**

**GROUPS OTHER THAN SMALL GROUPS FILING SUMMARY**

Carrier Name	_____
Address	_____
	_____
Carrier Identification Number	_____
Contract Holder	_____
Contract Form Number	_____
Contract Number	_____

Rate Renewal Period:	From _____	To _____
Date Submitted:	_____	
Type of Filing	New Contract <input type="checkbox"/>	Revision of Existing Contract <input type="checkbox"/>

**Summary of New Rate Development**

Current Rates	
Experience Rate Change	
Recoupment	
Reserves	
Benefit Changes	
Total New Rates	

PERMANENT

Summary of Contract Experience

	Experience Period		First Prior Period		Second Prior Period	
	From	To	From	To	From	To
Member Months						
Billed Premium						
Paid Claims						
Beginning Claim Reserve						
Ending Claim Reserve						
Incurred Claims						
Expenses						
Gain/Loss						
Experience Refund or Credit						
Earned Premium						
Contribution to Corporate Surplus						
Loss Ratio Percentage						

Attach comments or additional information.

Preparers Information

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

PERMANENT

**NEW SECTION**

**WAC 284-43-955 Effective date.** This subchapter shall become effective on March 1, 1998.

January 23, 1998  
Edith M. Rice, Chief  
Office of Legal Affairs

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 284-44-100 Authority and purpose.
- WAC 284-44-110 Applicability and scope.
- WAC 284-44-120 Definitions.
- WAC 284-44-130 When filing is required.
- WAC 284-44-140 General contents of all filings.
- WAC 284-44-150 Experience records.
- WAC 284-44-160 Evaluating experience data.
- WAC 284-44-190 Unique contract forms.
- WAC 284-44-200 Effective date.
- WAC 284-44-210 "Filing document" form—  
Standard contract filing information.
- WAC 284-44-220 "Filing document" form—  
Nonstandard contract filing information.

**AMENDATORY SECTION** (Amending WSR 94-10-065, filed 5/3/94, effective 6/3/94)

**WAC 388-245-1150 Periodic and special review of eligibility.** (1) The department shall redetermine the eligibility of financial assistance recipients at least once in every ((six\*)) twelve months of continuous receipt of assistance. The redetermination shall include:

- (a) A review of each eligibility factor and an evaluation of any change occurring since eligibility was previously established or reviewed; and
  - (b) For ((AFDC)) TANF and SFA recipients, a face-to-face interview at least once every twelve months.
- (2) At each periodic review of eligibility the department shall provide the recipient information regarding:
- (a) Significant changes in public assistance laws or department rules not previously discussed which may affect the recipient; and
  - (b) The recipient's legal rights and responsibilities in connection with public assistance.
- (3) The department shall complete a full review if a sufficient number of factors have changed to require a redetermination of eligibility.

**WSR 98-04-015**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed January 26, 1998, 11:20 a.m.]

Date of Adoption: January 23, 1998.

Purpose: To exercise an option under Public Law 104-193 that allows a longer period of time between reviews of eligibility. The state plan now requires an eligibility review every twelve months instead of every six months.

Citation of Existing Rules Affected by this Order: Amending WAC 388-245-1150.

Statutory Authority for Adoption: RCW 74.04.050, 74.08.090.

Other Authority: Public Law 104-193 (1996).

Adopted under notice filed as WSR 97-22-052 on October 31, 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 1, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

**WSR 98-04-016**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed January 26, 1998, 11:22 a.m.]

Date of Adoption: January 23, 1998.

Purpose: To exercise an option under Public Law 104-193 that allows waiving retroactive case overpayments for temporary assistance to needy families (TANF) and to state family assistance (SFA) clients who timely report a change in their earned income.

Citation of Existing Rules Affected by this Order: Amending WAC 388-245-1510.

Statutory Authority for Adoption: RCW 74.04.050, 74.08.090.

Other Authority: Public Law 104-193 (1996).

Adopted under notice filed as WSR 97-22-050 on October 31, 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 1, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

PERMANENT

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.

January 23, 1998

Edith M. Rice, Chief  
Office of Legal Affairs

**AMENDATORY SECTION** (Amending WSR 94-10-065, filed 5/3/94, effective 6/3/94)

**WAC 388-245-1510 Effective date of ineligibility for terminated grants.** (1) When a change in income (~~(including the receipt of a lump sum payment,))~~ causes ineligibility for more than one month, the ~~((recipient))~~ effective date of ineligibility shall be ((ineligible effective the first day of the month of receipt.)) determined as follows:

(a) When recurrent income (WAC 388-22-030), received in the budget month (WAC 388-218-1050(3)), causes ineligibility, the assistance unit shall be ineligible on the first day of the payment month (WAC 388-218-1050(17)) if the following circumstances are met:

(i) The assistance unit is subject to retrospective income budgeting (WAC 388-218-1910), and

(ii) The income is reported timely as required under WAC 388-245-1715 for nonmonthly reporting households or under WAC 388-245-2050 for households required to report monthly.

(b) For all other changes in income which cause ineligibility, including the receipt of a lump-sum payment, the assistance unit shall be ineligible on the first day of the month in which the income is received.

(2) When the change causes ineligibility for one month only, the department shall follow WAC 388-245-1400 and 388-245-1410.

(3) When a change of circumstances other than increased income renders the assistance unit or any member of the assistance unit ineligible, the effective date of the recipient's ineligibility shall be the first day of the month following the month in which the change occurred, except for:

(a) Striking workers, see WAC 388-215-1540.

(b) Clients who receive general assistance based on the relinquishment of a child for adoption.

### WSR 98-04-023

#### PERMANENT RULES

#### GAMBLING COMMISSION

[Filed January 28, 1998, 11:31 a.m., effective July 1, 1998]

Date of Adoption: January 9, 1998.

Purpose: These rules clarify the duties that define card room employees and "key employees."

Citation of Existing Rules Affected by this Order: Amending WAC 230-02-415.

Statutory Authority for Adoption: RCW 9.46.070(5).

Adopted under notice filed as WSR 97-21-102 on October 20, 1997.

Changes Other than Editing from Proposed to Adopted Version: In WAC 230-02-415, the provision defining card room employee as "any person who conducts any duty . . . system of internal management . . . for a card room approved to conduct house or player funded banked card games" was deleted to avoid confusion with the definition in WAC 230-02-425.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 2, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 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: July 1, 1998.

Soojin Kim  
Rules and Policy Coordinator

#### NEW SECTION

**WAC 230-02-425 Key employee defined.** A "key employee" is a card room employee, as defined by WAC 230-02-415, who performs any of the following functions in a licensed public or social card room:

(1) Manages the day-to-day affairs of a Class E or Class A card room;

(2) Conducts any duty that is a material part of the system of internal management or accounting controls for a card room approved to conduct house or player funded banked card games; or

(3) Acts as a custodian of a player supported jackpot scheme.

**AMENDATORY SECTION** (Amending Order 85, filed 5/25/78)

**WAC 230-02-415 ((Public)) Card room employee defined.** A ~~((public))~~ card room employee is any person who is ~~((employed))~~ involved in the operation of social card games conducted by a ((public card room operator, for compensation or otherwise, to work in, or in direct connection with, a public card room whose duties or responsibilities include any of the following:

~~(1) Floor person,~~

~~(2) Time collector,~~

~~(3) Chip seller,~~

~~(4) Dealer or mucker,~~

~~(5) Cashier,~~

~~(6) Pit boss,~~

~~(7) Card room manager,~~

~~(8) Supervision of any person working in, or in connection with, the card room,~~

~~(9) The prevention or discovery of cheating by persons playing in the card room or of improper activities by employees working in the card room;~~

~~(10) To encourage the organization and/or beginning of a card game.~~

~~This definition does not include bartenders, waitresses and persons with similar duties who are limited to the serving of food or drink in the)) card room when such games involve the collection of fees.~~

Individuals who only perform duties of bartenders, waitresses or similar functions limited to providing food and drink service within the card room portion of the licensed premises are not "card room employees." Persons performing at least the following functions shall be designed as card room employees:

(1) Collecting fees;

(2) Dealing;

(3) Supervising any card game or card room employee, such as acting as a pit boss, floor person, section supervisor, etc.;

(4) Cashier duties such as selling or redeeming chips;

(5) Surveillance of dealers and card games to detect cheating or control functions;

(6) Controlling card room funds including keys to secure locations;

(7) Key employees as defined in WAC 230-02-425.

**WSR 98-04-024**  
**PERMANENT RULES**  
**GAMBLING COMMISSION**

[Filed January 28, 1998, 11:36 a.m., effective July 1, 1998]

Date of Adoption: January 9, 1998.

Purpose: These rule changes facilitate recordkeeping and accounting in bingo operations. Changes specify that daily record for bingo operations should include either a duplicate copy of the prize receipt or the merchandise prize receipt log; allow merchandise prizes valued at \$15.00 or less to be receipted on a single log sheet; require unredeemed certificates that were issued as prizes to be accounted for by decreasing the prize expense account.

Citation of Existing Rules Affected by this Order: Amending WAC 230-08-080, 230-20-102, and 230-20-115.

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

Adopted under notice filed as WSR 97-23-052 on November 17, 1997, with a publication date of December 3, 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 3, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: July 1, 1998.

Soojin Kim  
Rules and Policy Coordinator

AMENDATORY SECTION (Amending Order 293, filed 6/18/96, effective 7/19/96)

**WAC 230-08-080 Daily records—Bingo.** In addition to any other requirement set forth in these rules, licensees for the operation of bingo shall be required to prepare a detailed record covering each bingo session as defined in WAC 230-02-104: *Provided*, That operators of bingo games conducted at qualified agricultural fairs and other special locations shall be exempt from this rule, but will be required to keep all operator records by location in order to properly report all information as required by WAC 230-08-250. This detailed daily record shall disclose the following information for each separate session conducted during a bingo occasion:

(1) The gross gambling receipts collected for each separate type of sale, of any kind, for bingo games including, but not limited to, regular games, early bird games, blackout games, special games, or pick up games. These gross gambling receipts shall be supported by receipting records required by WAC 230-20-101 and inventory control records required by WAC 230-08-105. Licensees using the combination receipting method shall reconcile the extended value of all disposable cards, packets of cards, and electronically generated cards sold to the amount of sales recorded per the cash register;

(2) The amount paid out or accrued for prizes awarded for each bingo game. Each session record shall contain the following minimum information regarding prizes awarded:

(a) The game number;

(b) The dollar amount or the actual cost of each prize;

(c) A complete description of all noncash prizes;

(d) The consecutive number of the prize receipt issued for each prize;

(e) The duplicate copy of the prize receipt issued for all prizes awarded during the session or the merchandise prize receipt log as allowed by WAC 230-20-102(4);

(f) The check number of all checks used to pay winners of bingo games: *Provided*, That if the payment must be made by check under the guidelines of WAC 230-20-102 (1)(c), the duplicate copy must be maintained as a part of the session records; and

(g) Full details of prizes accrued.

(3) The net gambling receipts from each bingo session;

(4) The cash on hand at the commencement and the conclusion of each session;

(5) A reconciliation of cash on hand, net gambling receipts, and the bank deposit of net revenue for each session. The bank deposit shall be supported by a validated copy of the bank deposit receipt. Steps taken to reconcile overages and/or shortages that exceed twenty dollars for any session must be documented;

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(6) An attendance record indicating the number of people participating and the time the attendance count was made;

(7) All bingo numbers or symbols selected and called during any game that offers a prize exceeding two hundred dollars. The numbers or symbols shall be recorded in the sequence selected. A computer generated "call sheet" may be used in lieu of a manual record if a print-out of results is made;

(8) The winning card or face number(s) for each individual prize awarded that exceeds two hundred dollars: *Provided*, That if the game is played using disposable bingo cards, the winning card or sheet of cards may be retained in lieu of the card numbers;

(9) A copy of the schedule of the games to be played and prizes available for the session: *Provided*, That if the record is annotated with the effective dates of each game schedule, it may be maintained separately and updated only when a change occurs. Any changes to the advertised and printed game and prize schedule, that occur during a session, must be noted in the session records and verified by the signature of the gambling manager assigned primary responsibility for supervising the session and another bingo worker on duty during the session;

(10) The gambling manager assigned primary responsibility for supervising the bingo session(s) must review all session records for accuracy, determine that required information is provided, and confirm the required deposit amount(s). After satisfactory completion of this review, the records must be signed by the gambling manager responsible for supervising the session before the gambling manager leaves the premises on the day(s) the session(s) was conducted; and

(11) All records required by this section shall be:

(a) Recorded in a standard format prescribed by the commission;

(b) Recorded during the course of each session; and

(c) Retained for a period of not less than three years.

**AMENDATORY SECTION** (Amending Order 303, filed 11/21/96, effective 12/22/96)

**WAC 230-20-102 Bingo prizes—Record of winners.**

All payments of prizes for bingo games shall be accounted for and documented in a manner that affords independent verification of the amount paid and the fact of distribution to winners: *Provided*, That Class A and B bingo licensees, organizations conducting bingo under the provisions of RCW 9.46.0321, and bingo activities conducted at a qualified agricultural fair are exempt from all portions of this rule if the requirements of WAC 230-08-015 are followed. Payment of all prizes shall be documented using the following procedures:

*What are the receipting and recordkeeping requirements for bingo prizes?*

(1) A prize receipt shall be completed for each prize awarded at bingo games: *Provided*, That merchandise prizes with a cost or fair market value of fifteen dollars or less may be receipted on a single log sheet as allowed in subsection (4) of this section. The following minimum information shall be recorded for each prize awarded:

(a) The date;

(b) The game number;

(c) The complete name and address of the winner: *Provided*, That an address of the winner is not required if prizes greater than \$300 are paid by check or a combination of cash or check and:

(i) Checks are drawn on the licensee's gambling bank account;

(ii) Checks are made payable only to the winner: *Provided*, That checks for prizes won by players under age eighteen may be made payable to the guardian or immediate family member accompanying the player;

(iii) The game number and prize receipt number are notated on the check;

(iv) Checks used are of a type that provides a duplicate copy. The copies become a part of the daily bingo records and must be maintained as such;

(v) All original checks are returned by the bank to the licensee. Original checks shall be available for inspection upon demand by the commission; and

(vi) Checks drawn on the licensee's gambling account are not cashed or otherwise redeemed by the licensee or on the licensee's premises.

(d) The dollar amount of the prize or the licensee's cost of noncash prizes;

(e) A full description of all noncash prizes;

(f) The check number, if any portion of the prize is paid by check; and

(g) The initials of the bingo worker making the payout and the cashier making the payment.

(2) Prize receipts shall be consecutively issued in an ascending order. Prize receipts bearing a number below the highest number issued during a session shall be voided and retained with the daily records.

(3) The original of each prize receipt shall be given to the winner and a duplicate copy shall be retained by the licensee as a part of its records for a period of not less than three years.

(4) Merchandise prizes with a cost or fair market value of fifteen dollars or less may be receipted on a merchandise prize receipt log. A separate merchandise prize receipt log shall be maintained for each session used, and retained as a part of the bingo daily records. At a minimum, the following information must be recorded on the log:

(a) The date and session;

(b) The game number;

(c) The complete name of the winner printed;

(d) The cost of the prize or fair market value of the prize if donated;

(e) A full description of the prize;

(f) The initials of the person distributing the prize; and

(g) The criteria for awarding the prizes.

*How must prize receipts be printed?*

~~((4))~~ (5) Prize receipts shall be printed by a commercial printer and meet the following standards:

(a) Manufactured of two-part, self-duplicating paper that provides for an original and a duplicate copy;

(b) Imprinted with the name of the licensee and a consecutive ascending number that does not repeat in at least 100,000 occurrences: *Provided*, That Class E and smaller licensees may utilize receipts that are not imprinted with the



licensee's name and which the consecutive number does not repeat in at least 1,000 occurrences; and

(c) Provide space for the licensee to record the information required by subsection (1) above.

*What records must a licensee keep for the acquisition of prize receipts?*

~~((5))~~ (6) All prize receipts purchased or otherwise obtained must be accounted for by the licensee. Prize receipts purchased or otherwise obtained by the licensee shall be documented on a vendor's invoice. This invoice, or a photo-copy thereof, shall be maintained on the premises and available for inspection by commission staff. The following information shall be documented on the purchase invoice:

- (a) Name of the vendor;
- (b) Name of the purchasing organization;
- (c) Date of purchase;
- (d) Number of receipts purchased; and
- (e) The beginning and ending receipt number.

*For progressive prize type games, how may increases to the prize pool be accrued and accounted for?*

~~((6))~~ (7) Increases to the prize pool for progressive prize type games may be accrued and treated as prizes awarded during the current session if the following conditions are met:

- (a) Prize receipts will be issued only when the prize is actually awarded;
- (b) Full details of accrued prizes outstanding at the end of each calendar quarter, will be furnished on the licensee's activity report;
- (c) Once an election is made to accrue prizes for a particular game, all increases to that prize must be accrued;
- (d) Prizes must be accrued after the completion of each session in which they are increased;
- (e) A reconciliation of the prize fund shall be made on each "Daily summary - Cash control" record;
- (f) The amount of prize accrued shall be deposited in the gambling receipts account per WAC 230-12-020;
- (g) The balance of the gambling receipts banking account shall not be reduced at any time below the amount of prizes accrued and currently being offered: *Provided*, That accrued prizes may be transferred to a special bank account, for this purpose, if the balance is maintained at a level equal to or greater than the amount of prizes accrued and currently being offered; and
- (h) In the event management elects to discontinue games for which prizes have been accrued, the operator shall amend all activity reports and tax returns previously submitted to reflect the actual prizes awarded.

**AMENDATORY SECTION** (Amending WSR 96-07-078 [97-09-072], [filed 4/22/97,] effective 7/1/96 [7/1/97])

**WAC 230-20-115 Gift certificates—Requirements.** Gift certificates may be sold or issued as prizes during bingo games and such shall not be deemed sales of bingo cards for purposes of this title if licensees comply with the following restrictions:

(1) If sold, gift certificates shall be paid for in full at the time they are issued;

(2) Gross receipts from the sale of certificates shall be deposited separately into the gambling account no later than five banking days after receipt. The certificate numbers relating to the funds deposited shall be a part of the deposit record;

(3) For gift certificates awarded as prizes, the value of the certificate is recorded as a bingo prize on the daily bingo records for the sessions in which the certificate was issued. The certificate will be supported by a bingo prize receipt;

(4) Gift certificates shall be purchased from a commercial printer or licensed distributor and shall be prenumbered, consecutively issued, and have a predetermined value with the following information imprinted:

- (a) The name of the organization issuing the certificate;
- (b) The date issued and an expiration date no later than three months from the date issued for awarded certificates; and one year for sold certificates;
- (c) The dollar value of the certificate; and
- (d) Any conditions or contingencies related to redemption of the certificate;

(5) Gift certificates may only be awarded as prizes on up to four occasions per year, and no prize shall include more than forty dollars U.S. currency in gift certificates;

(6) Certificates shall only be redeemed for bingo cards, food, drink, merchandise, punchboards or pull tabs upon the licensed premises from which it was issued;

(7) Certificates redeemed shall be applied against bingo activity and daily bingo records shall be modified in the cash reconciliation section of the approved record format to document the number and dollar value of certificates redeemed;

(8) A reconciliation of gift certificate inventory to certificates issued shall be performed on a monthly basis and will include the following control features:

- (a) Purchase invoices will be retained for gift certificates and they will include the organization name, date of purchase, and beginning and ending certificate numbers;
- (b) Redeemed certificates will be maintained with the corresponding daily sales records;
- (c) Sold ~~((C))~~(c)ertificates not redeemed ~~((within))~~ the expiration date shall be properly accounted for as a donation; and

(d) Certificates issued as prizes and not redeemed by the expiration date shall be accounted for by decreasing prizes paid expense by the value of the expired certificate and eliminating the corresponding liability. This adjusting entry shall be clearly documented in the licensee's monthly records; and

- (e) ~~((d))~~ A certificate log will be maintained and will include the following:
  - (i) Certificate number;
  - (ii) Certificate value;
  - (iii) Date of issue;
  - (iv) Expiration date;
  - (v) Date of redemption; and
  - (vi) If awarded as a prize, the session and date the prize is awarded.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

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

**WSR 98-04-025  
PERMANENT RULES  
SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

[Order 98-01—Filed January 28, 1998, 1:05 p.m.]

Date of Adoption: January 21, 1998.

Purpose: Provides procedures for schools to quickly verify the immunization records of students transferring from one school to another before the original immunization records are received.

Citation of Existing Rules Affected by this Order: Amending WAC 392-182-020.

Statutory Authority for Adoption: RCW 28A.210.150.

Adopted under notice filed as WSR 97-24-014 on November 21, 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.

January 21, 1998  
Dr. Terry Bergeson  
Superintendent of  
Public Instruction

**AMENDATORY SECTION** (Amending Order 85-10, filed 10/21/85)

**WAC 392-182-020 Quick verification of immunization records.** In the event the records of a student transferring from one school to another have not been received before or on the student's first day of attendance at the new school, the chief administrator or administrator's designee of the new school shall attempt to verify the immunization status of the student prior to excluding such student pursuant to the provision of chapter 180-38 WAC. Such verification of full immunization, commencement of a schedule of immunization, or a statement of exemption may rely upon telephonic or electronic communication with the chief administrator or other appropriate official at the previous school that indicates which of the specifically required vaccines the student has received and the month and year in which they were administered.

**WSR 98-04-026  
PERMANENT RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**  
(Aging and Adult Services Administration)  
[Filed January 28, 1998, 4:05 p.m.]

Date of Adoption: January 27, 1998.

Purpose: Adjusts functional eligibility standards or service levels for the Chore, COPES and MPC programs to stay within the legislature's budgetary appropriation.

Citation of Existing Rules Affected by this Order: Amending WAC 388-15-209, 388-15-222, 388-15-610, 388-15-830, 388-15-880, and 388-15-890.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.035, [74.09.]520, [74.09.]530, 74.39A.110, [74.39A.]120, and [74.39A.]030.

Adopted under notice filed as WSR 97-24-081 on December 2, 1997.

Changes Other than Editing from Proposed to Adopted Version: The department is withdrawing the proposed amendment in subsection (6) of WAC 388-15-209 that would change the reassessment requirement for Chore services from eighteen months to twelve months; withdrawing the proposed amendments to WAC 388-97-235; and is withdrawing the repeal of WAC 388-15-215.

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 6, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, amended 6, 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 6, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 27, 1998  
Edith M. Rice, Chief  
Office of Legal Affairs

**NEW SECTION**

**WAC 388-15-201 Long-term care functional eligibility.** In order to receive COPES, Medicaid personal care or chore services, a client must be at risk of institutionalization within the next thirty days and be assessed by the department or designee as having an unmet need requiring substantial or total assistance with one or more of the following critical self-care tasks as defined in WAC 388-15-202(38), and 388-15-203:

- (1) Eating;
- (2) Toileting;
- (3) Ambulation;
- (4) Transfer;
- (5) Positioning;
- (6) Bathing; or

PERMANENT

## (7) Self-medication.

**AMENDATORY SECTION** (Amending WSR 96-20-093, filed 10/1/96, effective 11/1/96)

**WAC 388-15-209 Chore personal care services—Eligibility.** A chore personal care eligible person shall:

- (1) Be eighteen years of age and over;
- (2) ~~((Be assessed under WAC 388-15-203 through 388-15-205 and found at risk of placement in a long-term care facility as evidenced by:~~

~~(a) The need for assistance with one or more direct personal care tasks defined under WAC 388-15-202(17); and~~  
~~(b) The lack of persons willing and able to provide unpaid assistance with the required personal care tasks))~~  
Meet the requirements listed in WAC 388-15-201.

(3) Not be eligible for Medicaid personal care or community options program entry system (COPES) services, and the person's needs cannot be met through Medicare home health or another program for which the person is eligible.

(4) Meet the following chore personal care service financial eligibility requirements:

(a) Have net household income as described in WAC 388-505-0590 (3) and (4) and WAC 388-511-1130 and 388-511-1140 not exceeding the sum of the cost of the client's chore personal care services and one hundred percent of the federal poverty level adjusted for family size; and

(b) Participate in the cost of chore personal care services as described under WAC 388-15-219; and

(c) Have financial resources as described under WAC 388-511-1150 and 388-511-1160 with a value not exceeding(±

~~(i) Ten thousand dollars for a one person family;~~  
~~(ii) Fifteen thousand dollars for a two person family;~~  
~~(iii)) limits set in WAC 388-513-1310(2)(a)(b) except for clients identified under WAC 388-15-222, and be a sum calculated by adding an additional one thousand dollars for each additional family member; and~~

(d) Be subject to transfer of assets penalties as described in WAC 388-513-1365 for assets transferred on or after November 1, 1995; and

(e) Not be within a period of ineligibility due to assets transferred on or after November 1, 1995 for less than fair market value as described under WAC 388-513-1365.

(5) Be deemed to meet the financial eligibility requirements set forth in subsection (4) if the person is an adult protective service client at risk of placement in a long-term care facility; and the chore personal care services are:

(a) An integral but subordinate part of the adult protective services plan; and

(b) Provided only until the situation necessitating the service has stabilized; and

(c) Limited to a maximum of ninety days during any twelve-month period; and

(d) Provided without regard to the client's income or resources.

(6) Be reassessed at least every eighteen months or more often as deemed necessary, per WAC 388-15-204.

**AMENDATORY SECTION** (Amending WSR 95-20-0412 [95-20-041], filed 9/28/95, effective 10/29/95)

**WAC 388-15-222 Chore personal care services—Employed disabled—Incentive income and resource exemption.** (1) The department shall exempt fifty percent of net earned income after work expenses above one hundred percent of the federal poverty level.

(2) The department shall only apply this exemption to:

(a) Clients determined disabled according to WAC 388-511-1105;

(b) The client, not the client's spouse or other household members.

(3) The department shall allow an employed disabled client to have resources as described under WAC 388-511-1150 and 388-511-1160 with a value not exceeding:

(a) Ten thousand dollars for a one-person family;

(b) Fifteen thousand dollars for a two-person family;

(c) A sum calculated by adding an additional one thousand dollars for each additional family member.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

**AMENDATORY SECTION** (Amending WSR 96-20-093, filed 10/1/96, effective 11/1/96)

**WAC 388-15-610 COPES—Eligibility.** A COPES-eligible person shall:

(1) ~~((Be an aged, blind, or disabled client, as defined under WAC 388-511-1105 (1)(a), (b), and (c)(i) and (ii)))~~  
Meet the requirements in WAC 388-15-201;

(2) Be eighteen years of age or older;

(3) ~~((Be assessed as defined under WAC 388-15-202 through 388-15-205; and~~

~~(4) Have medical problems or cognitive impairment and be unable to maintain or coordinate the treatment plan; and~~

~~(5) Is likely to need the level of care provided in a nursing facility as defined under WAC 388-97-005(20) within the next thirty days, but for the provision of COPES payments for home or community based-waiver services as defined under WAC 388-15-620;~~

~~(6) Require services that must be provided by or under the supervision of a registered nurse or a licensed practical nurse on a daily basis; or~~

~~(7) Require substantial or total assistance with two or more of the following critical self-care tasks as defined under WAC 388-15-202(38) and 388-15-203(3):~~

~~(a) Eating;~~

~~(b) Toileting;~~

~~(c) Ambulation;~~

~~(d) Transfer;~~

~~(e) Positioning;~~

~~(f) Bathing;~~

~~(g) Self-medication; or~~

~~(8)(a) Have cognitive supervision needs due to one or more of the following:~~

~~(i) Disorientation;~~

~~(ii) Memory impairment;~~

~~(iii) Impaired judgment; or~~

~~(iv) Wandering; and~~

~~(b) Require substantial or total assistance with one or more of the critical self-care tasks in subsection (6)(a) through (f) of this section; or~~

~~(9) Require minimal, substantial or total assistance in three or more of the critical self-care tasks in subsection (6)(a) through (f) of this section; or~~

~~(10) Currently reside in a nursing facility, as defined under WAC 388-97-005(20), and be unable to return to and remain in the community without assistance with one or more of the services provided by the COPEs program as defined under WAC 388-15-620; or~~

~~(11) Meet the definition of a person functionally or clinically eligible for nursing facility care as defined under WAC 388-97-235;~~

~~(12)) Have a feasible written plan of care. The department shall ensure the plan(:~~

~~(a) Is sufficient to safeguard the client's health and safety and the plan's costs, including the department's published COPEs maintenance allowance; and~~

~~(b)) is less than ninety percent of the average state-wide nursing facility rate(;~~ and

~~(13) Prefer to receive home or community-based waiver services as described in the department's plan of care, as an alternative to department placement in a nursing facility;~~

~~(14)); and~~

~~(4)(a) Not be financially eligible for Medicaid personal care services; or~~

(b) Be financially eligible for Medicaid personal care services; however, the department determines the Medicaid personal care services are not sufficient in amount, duration, or scope to meet the person's needs.

~~((15)) (5) Have gross monthly income not exceeding three hundred percent of the Supplemental Security Income (SSI) program, Title XVI federal grant excluding the supplementary state money payment (SSP) as described under WAC 388-500-0005;~~

~~((16)) (6) Have resources at or below the Medicaid standard as defined under WAC 388-513-1315 (1)(b) and (c) and 388-513-1350; and~~

~~((17) Meet the COPEs waiver target group requirements as specified in the department's approved waiver request))~~

(7) Be reassessed at least every twelve months or more often as deemed necessary, per WAC 388-15-204.

AMENDATORY SECTION (Amending WSR 95-20-041, filed 9/28/95, effective 10/29/95)

**WAC 388-15-830 Medicaid personal care services—Eligibility.** (1) An eligible Medicaid personal care person shall ((be)):

(a) Be certified as a Title XIX categorically needy medical assistance client;

~~(b) ((Assessed as defined under WAC 388-15-202 through 388-15-205 and shall be determined to need personal care assistance with one or more direct Medicaid personal care tasks to remain in a community residence due to a handicapping condition as defined under WAC 388-15-202(2). In assessing the client with a handicapping condition, the department may require documentation from a physician or a mental health professional to determine the extent of the person's handicapping conditions)); and~~

(c) ~~((Residing))~~ Reside in the client's own residence, in a licensed and contracted adult family home, a licensed boarding home under department contract, a children's foster family home, or a children's group care facility.

(2) The department shall determine a person's eligibility for Medicaid personal care services begins upon the date of the department's service authorization.

~~(3) ((The department shall not authorize chore personal care services or adult family home add-on services to a person qualifying for Medicaid personal care services when the person's service needs are met within the scope of the Medicaid personal care program))~~ Meet the requirements in WAC 388-15-201.

(4) For an applicant through seventeen years of age or until the applicant transfers out of DCFS foster care or group care, the DCFS or DDD assessor shall only assess the need for personal care services exceeding the level of age appropriate personal care and not already being provided for through the child's natural/unpaid support systems. The assessor shall use a comprehensive assessment form specific to children for children from birth through seventeen years of age or until the age of transfer out of DCFS foster care or group care.

(5) The client shall be reassessed at least annually or more often as deemed necessary as defined under WAC 388-15-204.

AMENDATORY SECTION (Amending WSR 96-20-093, filed 10/1/96, effective 11/1/96)

**WAC 388-15-880 Medicaid personal care services—Payment procedures.** The department shall:

(1) Pay for Medicaid personal care services provided in accordance with a client's approved plan of care, a sum not to exceed the Medicaid personal care rates as set forth in the most recent schedule of department-established and published rates.

(2) Pay ~~((contracted-congregate))~~ adult residential care facilities licensed under chapter 18.20 RCW and chapters 246-316 and 212-36 WAC for authorized personal care services.

(3) Pay contracted adult family homes licensed under chapters 70.128 RCW and 388-76 WAC for authorized personal care services.

(4) Pay for personal care services provided to an adult by home care agencies licensed under chapters 70.127 RCW and 248-36 WAC or by home health agencies licensed under chapters 70.126 RCW and 246-327 WAC. The department:

(a) Shall make agency payments directly to the agency or through a factor.

(b) May authorize agency services when the adult client's service plan requires ~~((eighty-five))~~ one hundred twelve or fewer hours personal care service per month.

~~((e) Shall ensure the contractor pays service providers performing Medicaid personal care services five dollars and fifteen cents or more per hour.))~~

(5) Pay an individual personal care provider providing personal care when the provider:

(a) Meets or surpasses the department's minimum qualifications of knowledge and experience, skills, and abilities for individual personal care providers as defined under WAC 388-15-196. Family members who provide

personal care services must meet the same standards as providers who are unrelated to the client;

(b) Has a department-approved individual personal care provider agreement and service payment authorization;

(c) Has been interviewed, hired, supervised, and retained by a client eligible for Medicaid personal care or the client's representative; and

(d) Has provided the authorized services defined under WAC 388-15-202 in accordance with the client's service plan.

(6) Pay for personal care services when authorized for a child and provided by:

(a) A foster parent or group care facility defined under WAC 388-73-014(8);

(b) An agency which meets the qualifications in subsection (4) of this section and is contracted by the division of children and family services or the division of developmental disabilities for services provided in:

(i) A foster or group home; or

(ii) The child's own home; or

(iii) The home of a child's relative under a relative placement.

(c) An individual provider who meets the qualifications in subsection (5) of this section without regard to the number of hours of service.

(7) Not pay a Medicaid personal care client's spouse nor pay a Medicaid personal care eligible child's parent or step-parent, when the child is seventeen years of age or younger, for providing care to the client.

(8) Not make payment for services provided exceeding the department's authorization.

**AMENDATORY SECTION** (Amending WSR 96-20-093, filed 10/1/96, effective 11/1/96)

**WAC 388-15-890 Medicaid personal care services—Program limitations.** (1) Because Medicaid services are specific to the eligible client and based on medical necessity, the department shall not authorize Medicaid personal care services for:

(a) Teaching, including teaching clients how to perform personal care tasks or other community living skills;

(b) Personal care services provided over the telephone;

(c) Services provided at a site other than the client's residence, unless authorized by the department in the written service plan;

(d) Developing social, behavioral, recreational, communication, or other types of skills;

(e) Companionship; or

(f) ~~(Travel to medical services, essential shopping, meal preparation, housework, laundry, wood supply, or supervision as defined under WAC 388-15-202, unless the client is assessed as needing assistance with one or more direct personal care tasks as described in WAC 388-15-202(17), i.e., personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, body care, or self-medication; or~~

~~(g))~~ Assisting or supporting other household members not eligible for Medicaid personal care.

(2) The department shall adjust payment for services according to department-established rates which take into account the provision of household tasks done at the same

time for all of the household clients by a personal care provider, e.g., essential shopping, meal preparation, laundry, housework, wood supply, travel to medical services and supervision when:

(a) More than one client lives in the same household; or

(b) The client is in a shared living arrangement.

(3) The department shall not authorize the following as Medicaid personal care tasks to clients who live in an adult family home, licensed boarding home, or children's foster/group home:

(a) Meal preparation,

(b) Wood supply,

(c) Laundry,

(d) Housework, or

(e) Supervision, unless the supervision is directly related to an unscheduled task as defined in WAC 388-15-202(51).

(4) Personal care tasks do not include assistance requiring a licensed health professional.

### NEW SECTION

**WAC 388-15-895 Termination of services.** Clients who do not meet the functional eligibility requirements in WAC 388-15-201, as evidenced by the department's or designee's assessment performed in the last twelve months for clients receiving Medicaid personal care or COPES and in the last eighteen months for clients receiving chore personal care, shall be ineligible for continued service.

### WSR 98-04-028

#### PERMANENT RULES

#### UTILITIES AND TRANSPORTATION COMMISSION

[General Order No. R-448, Docket No. UT-970317—Filed January 28, 1998, 4:15 p.m.]

In the matter of amending WAC 480-80-330 and 480-120-027 and adopting WAC 480-123-010, relating to universal service discounts for telecommunications service provided to schools, libraries and rural health care providers.

**STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 97-24-115, filed with the code reviser on December 3, 1997. The commission brings this proceeding pursuant to RCW 80.36.080, 80.01.040, and the United States Telecommunications Act of 1996, Section 254.

**STATEMENT OF COMPLIANCE:** This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

**DATE OF ADOPTION:** The commission adopted this rule on January 14, 1998.

**CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** On May 8, 1997, the Federal Communications Commission (FCC) released its Report and Order, FCC Order No. 97-157, (FCC Order) implementing key portions of Section 254 of the Telecommunications Act of 1996 (the federal act), which addresses universal service. Among other matters, the order identified services to be supported by

federal universal service funding and the mechanisms whereby such funding will be provided. Discounts on telecommunications services and certain nontelecommunications services for schools, libraries, and rural health care providers are among the items identified for support by the new federal program. The funding will be provided by providers of interstate telecommunications services, and the fund will be administered under the supervision of the FCC.

The FCC Order provides for funding of both interstate and intrastate services for schools, libraries, and rural health care providers. The federal act provided that the FCC set the discounts for such interstate services for schools and libraries and reserved to the states the authority to set such discounts for intrastate services. In order for the discounts to be provided to eligible entities in Washington pursuant to this federal program, the FCC's May decision required the state regulatory utility commission, in this case the commission, to adopt the FCC's discount matrix, or discounts no lower than the federal discounts, by January 1, 1998.<sup>1</sup>

<sup>1</sup>The commission adopted the discount by emergency rule making in this same docket on July 30, 1997. The purpose of the instant order is to make the FCC discount matrix and accompanying rules permanent.

This adoption of a new rule and amendment to existing rule affect no economic values and have no adverse environmental effect, in that they merely provide a means for Washington state schools and libraries to take advantage of the federal program. No intrastate funds are involved and this action will not increase or decrease the amount of funds reserved or set aside from Washington state ratepayers. The commission's rules governing contracts are being modified in relation only to this program, and only for the purpose of providing maximum flexibility to regulated providers while preserving commission oversight.

**REFERENCE TO AFFECTED RULES:** This rule repeals, amends, or suspends the following sections of the Washington Administrative Code: In reviewing the entire record, the commission determines that it should amend WAC 480-80-330 and 480-120-027 and it should adopt WAC 480-123-010, to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to be effective when filed. These rule changes will make commission regulations consistent with the federal requirements and will enable Washington state institutions access to funding.

**PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER:** The commission filed a Preproposal Statement of Inquiry (CR-101) on July 14, 1997, at WSR 97-15-053.

**ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT:** The statement advised interested persons that the commission was considering entering a rule making on establishing discounts from otherwise-applicable intrastate telecommunications rates for schools and libraries, and eligibility for federal subsidies, as required by the federal act and Report and Order No. 97-157 of the FCC, and on modification of rules governing contracts. The commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending the notice to all registered telecommunications companies, all telecommunications attorneys, and to a list of

persons interested in all rule makings on telecommunications matters. Pursuant to the notice, the commission requested written comments concerning the preproposal statement. Written comments in support of adoption of the discounts were received from GTE Northwest Incorporated (GTE), US WEST Communications, Inc. (USWC), and the Department of Information Services. Oral comments were also received from the City of Seattle, and the Washington Independent Telephone Association. There was no opposition expressed by any party.<sup>2</sup>

<sup>2</sup>The preproposal statement was sent out together with a notice concerning the initial adoption of the rules on an emergency basis. Comments were received at the same time with regard to both processes, and were consistently in support of the adoption of the rules.

**NOTICE OF PROPOSED RULE MAKING:** The commission filed a notice of Proposed Rule Making (CR-102) on December 3, 1997, at WSR 97-24-115. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 97-24-115 at 9:30 a.m., Wednesday, January 14, 1998, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

**COMMENTERS (WRITTEN COMMENTS):** The commission received written comments from GTE, USWC, the Department of Information Services, and the Washington State Library in support of the proposed rule making. No other written comments were received. No comments in opposition to the proposed rule making were received.

**RULE-MAKING HEARINGS:** The rule proposal was considered for adoption, pursuant to the notice, at the commission's regularly scheduled open public meeting on January 14, 1998, before Commissioner Richard Hemstad and Commissioner William R. Gillis. The commission heard oral comments from Tom Wilson, representing commission staff. No other interested person made oral comments.

**SUGGESTIONS FOR CHANGE THAT ARE REJECTED:** No changes were suggested.

**COMMISSION ACTION:** After considering all of the information regarding this proposal, the commission adopted the proposed amendments to the existing WAC and the new section added.

**CHANGES FROM PROPOSAL:** The commission adopted the proposal with the following changes from the text noticed at WSR 97-24-115.

In the last sentence in amendatory section WAC 480-80-330, new subsection (8), the word "may" is changed to "shall," as follows:

(8) \*\*\*The contract shall become effective immediately upon filing with the commission, or at such later time as is specified in the contract.

This change is required for clarity and certainty of the adopted provision, and does not alter flexibility in compliance.

In amendatory section WAC 480-120-027, new subsection (5), in the first sentence after the title of the new subsection, the word "tariff" is changed to "price list" so that the sentence will now read,

When a telecommunications company enters into a contract to provide competitively classified service to a school, library, or rural health care provider as part of the federal universal service program, the telecommunications company must file the contract if the rates, terms, or conditions of the prediscounted contract service depart from the price list.

This corrects an oversight in the noticed version, in that the amended section refers to price lists and not tariffs.

The word "may" in the last sentence in amendatory section WAC 480-120-027, new subsection (5) is changed to "shall," as follows:

(5)... The contract shall become effective immediately upon filing with the commission, or at such later time as is specified in the contract.

This change is required for clarity and certainty of the adopted provision, and does not alter flexibility in compliance.

STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: In reviewing the entire record, the commission determines that WAC 480-80-330 and 480-120-027 should be amended to read as set forth in Appendix A, and new section WAC 480-123-010 should be added as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with code reviser.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 1, amended 2, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

#### ORDER

THE COMMISSION ORDERS That:

1. WAC 480-80-330 and 480-120-027 should be amended to read as set forth in Appendix A, and new section WAC 480-123-010 should be added as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

2. This order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

3. The commission adopts the commission staff memorandum, presented when the commission considered filing a Preproposal Statement of Inquiry, when it considered filing

the formal notice of proposed rule making, and when it considered adoption of this proposal in conjunction with the text of this order, as its concise explanatory statement of the reasons for adoption, as required by RCW 34.05.025.

DATED at Olympia, Washington, this 28th day of January, 1998.

Washington Utilities and Transportation Commission  
Richard Hemstad, Commissioner  
William R. Gillis, Commissioner

#### APPENDIX "A"

AMENDATORY SECTION (Amending Order R-301, Docket No. U-88-1704-R, filed 6/1/89)

**WAC 480-80-330 Telecommunications contracts.** (1) Contracts to be filed. All contracts with end use customers for the retail sale of regulated intrastate telecommunications services which contain or state rates or conditions not in conformance with any applicable tariff or which provide for telecommunications services which are not specifically addressed in the telecommunications company's published tariffs shall be filed with the commission in accordance with this section. For purposes of this section the modification of a previously executed contract will be treated as a new contract. This section shall not apply to contracts which offer services subject to a price list filed pursuant to WAC 480-120-027.

(2) Application. This section shall apply prospectively to all contracts as defined in subsection (1) of this section executed after the effective date of this section.

(3) Time for filing and effectiveness. With the exception of firm bid contracts allowed under subsection (4) of this section, each contract shall be filed with the commission in accordance with this subsection. A contract which does not qualify for treatment under subsection (4) of this section shall be filed with the commission not less than thirty days prior to the proposed effective date of the contract, and shall become effective according to its terms unless earlier approved or rejected by the commission: *Provided*, That upon application and for good cause shown, the commission may approve the contract as of an effective date prior to the date that the contract would have become effective in accordance with this section.

(4) Federal contracts. Where a federal agency asserts its authority to solicit a firm offer of services and a contract subject to this section is submitted in response to that solicitation, the provisions of subsection (3) of this section will not apply. Upon the acceptance of such a contract offer by the federal agency, the telecommunications company shall immediately file the contract with the commission and must include the same documentation required for approval by subsection (5) of this section.

(5) Documentation. Each contract and substantial contract modification filed pursuant to this section shall be accompanied by documentation to show that the contract does not result in undue or unreasonable discrimination between customers receiving like and contemporaneous service under substantially similar circumstances; and provides for the recovery of all costs associated with the provision of the services. In addition, the telecommunications company shall file the following information in conjunction with each contract submitted:

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(a) A statement summarizing the basis of the rate or charge proposed in the contract and an explanation of the derivation of the proposed rate or charge;

(b) An explanation of all cost computations involved in arriving at the derivation of the level of the rate or charge in the contract; and

(c) A statement indicating the basis for the use of a contract rather than a filed tariff for the specific service involved.

(6) Duration of contract. All contracts shall be for a stated time period.

(7) Confidentiality. Filings under this section may be submitted with portions designated "confidential" pursuant to WAC 480-08-015. However, any filing which designates as "confidential" the essential terms and conditions will be rejected by the commission.

(8) Federal universal service contracts with schools, libraries, and rural health care providers pursuant to 47 CFR, Part 54. When a telecommunications company enters into a contract to provide service to a school, library, or rural health care provider, as part of the federal universal service program, the telecommunications company must file the contract if the rates, terms, or conditions of the prediscouted contract service depart from the tariff. The contract must be filed immediately upon acceptance by the administrator of the federal universal service program. The filing must include the same documentation required for approval by subsection (5) of this section. The contract shall become effective immediately upon filing with the commission, or at such later time as is specified in the contract.

**AMENDATORY SECTION** (Amending Order R-301, Docket No. U-88-1704-R, filed 6/1/89)

**WAC 480-120-027 Price lists.** (1) Pursuant to RCW 80.36.310 telecommunications services classified by the commission as competitive will be offered under price lists. All services of competitive telecommunications companies as classified by the commission under RCW 80.36.310 will be offered under price lists.

(2) All price lists filed with the commission must describe the service being offered and all prices, charges, terms, and conditions pertaining thereto. Each page of every price list shall contain, in general, the company name, the page number, and the effective date. All subsequent revisions of a price list shall bear consecutive revision numbers. Price lists must provide sufficient detail for customers and potential customers reasonably to determine what is being offered and what charges the customer incurs in obtaining the service.

(3) Contracts (including modifications to previously executed contracts) for services which are governed by this section may be offered subject to the requirements of this subsection.

(a) Contracts of companies classified "competitive" under RCW 80.36.310 shall be filed with the commission not later than five business days after execution. A contract filed pursuant to this subdivision will not be rejected by the commission in the absence of competent evidence that the contract is unlawful.

(b) Contracts which offer services classified as "competitive" under RCW 80.36.330 shall be filed with the commis-

sion at least ten days prior to the effective date. Such contracts may not include both "price listed" and "tariffed" services unless the tariffed services are set forth separately and offered under an approved tariff or contract (see WAC 480-80-330). A contract filed pursuant to this subdivision may be rejected if the telecommunications company is unable to document that the price charged covered its relevant costs under either a long run incremental cost analysis or a fully distributed cost analysis whichever is lower, or any other commission-approved cost method. A contract filed pursuant to this subdivision may also be rejected upon a showing that it is otherwise unlawful. To meet its burden of proving that the contract is cost-based, the company shall, at a minimum, provide the following information at the time of filing:

(i) A statement summarizing the basis of the rate or charge proposed in the contract and an explanation of the derivation of the proposed rate or charge; and

(ii) An explanation of all cost computations involved in arriving at the derivation of the level of the rate or charge in the contract.

(c) All contracts filed pursuant to this subsection shall be for a stated time period.

(d) Filings under this subsection may be submitted with portions designated "confidential" pursuant to WAC 480-08-015. However, any filing which designates as "confidential" the essential terms and conditions will be rejected by the commission.

(4) Federal contracts. Where a federal agency asserts its authority to solicit a firm offer of services and a contract subject to this section is submitted in response to that solicitation, the provisions of subsection (3) of this section will not apply. Upon the acceptance of such a contract offer by the federal agency, the telecommunications company shall immediately file the contract with the commission and must include the same documentation otherwise required by this section.

(5) Federal universal service contracts with schools, libraries, and rural health care providers pursuant to 47 CFR, Part 54. When a telecommunications company enters into a contract to provide competitively classified service to a school, library, or rural health care provider, as part of the federal universal service program, the telecommunications company must file the contract if the rates, terms, or conditions of the prediscouted contract service depart from the price list. The contract must be filed immediately upon acceptance by the administrator of the federal universal service program. The filing must include the same documentation required for approval by subsection (3)(b) of this section. The contract shall become effective immediately upon filing with the commission, or at such later time as is specified in the contract.

#### **NEW SECTION**

**WAC 480-123-010 Federal universal service contracts.** For purposes of schools and libraries receiving federal universal service funding under 47 CFR, Part 54 of the Federal Communications Commission rules, the following discounts shall apply:



SCHOOLS AND LIBRARIES

DISCOUNT MATRIX HOW DISADVANTAGED?  % of students eligible for national school lunch program	DISCOUNT LEVEL	
	urban discount (%)	rural discount (%)
<1	20	25
1-19	40	50
20-34	50	60
35-49	60	70
50-74	80	80
75-100	90	90

**WSR 98-04-031**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Medical Assistance Administration)  
 [Filed January 29, 1998, 10:40 a.m.]

Date of Adoption: January 28, 1998.

Purpose: This amendment is to ensure appropriate exemption of an automobile when determining eligibility for medical assistance. It increases the amount of the exemption to \$5,000 as allowed under less restrictive federal methodology. It exempts funds received under a class settlement in the case of *Susan Walker vs. Bayer Corporation et al.*, 96-C5024 (N.D. Ill. May 8, 1997). Editorial changes to improve readability do not change intent of this WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 388-511-1160.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, and 74.08.090.

Other Authority: 42 CFR 435.601 and Section 4735 of the Federal Balanced Budget Act of 1997 (Public Law 105-33 (H.R. 2015)).

Adopted under notice filed as WSR 98-01-127 on December 18, 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 1, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 28, 1998  
 Edith M. Rice, Chief  
 Office of Legal Affairs

AMENDATORY SECTION (Amending WSR 97-03-034, filed 1/9/97, effective 2/9/97)

**WAC 388-511-1160 SSI-related resource exemptions.**

(1) ~~((The department shall exempt the following resources in))~~ When determining eligibility for SSI-related medical care programs, the following resources are exempt:

(a) One home ~~((; (i) "Home" means)), which may be any shelter~~ ~~((; (A)))~~ in which ~~((; (a)))~~ the client has ownership interest ~~((; and ((B)))~~, when:

(i) The client uses ~~((as))~~ the ~~((principal place of residence. The department shall only consider one))~~ home as the ~~((client's))~~ principal place of residence ~~((;~~

(ii) The client's absence from the home shall not affect the home exemption. The client's home shall remain the principal place of residence as long as:

(A) The client intends to return home. The department shall accept the client's statement of intent without challenge; or

(B) A client's spouse or dependent relative uses the home during the client's absence. The department shall:

(1) Consider a person a dependent relative when such a person is either financially or medically dependent on the client; and

(2) Accept the client's or dependent relative's written statement of dependency or relationship unless the department has reason to question such statement.

(iii) The department shall exempt the proceeds from the sale of the home providing the client uses the proceeds to purchase another home within three months of the receipt of the proceeds. Proceeds include:

(A) Real estate contracts or any similar home financing arrangements; and

(B) The amount of income that does not reflect interest from such a contract.

(iv) The department shall evaluate transfers of the home by an institutional client or client's spouse under WAC 388-513-1365;

(b));  
(ii) The client's spouse resides in the home; or  
(iii) The client does not currently live in the home and the client:

(A) Intends to return to the home; and  
(B) Provides the department with an oral or written statement of the intent.

(iv) A relative resides in the home when:  
(A) The relative is financially or medically dependent on the client; and

(B) The client or dependent relative provides the department with a written statement of the dependency.

(b) Proceeds from the sale of the home described under subsection (1)(a) of this section when the client purchases another home within three months of receipt of the proceeds. Proceeds include:

(i) Cash; or

(ii) A real estate contract or similar home financing arrangement with the exception of the amount of income from such a contract that represents interest payments. See subsection (2) of this section when the client does not intend

PERMANENT

to purchase another home within the three-month time period.

~~(c) Household goods and personal effects;~~

~~((e)) (d) One vehicle (the department shall:~~

~~(i) Exempt one vehicle regardless of its value if, for)) with up to five thousand dollars in equity value. The five thousand dollar limitation does not apply when the client or a member of the client's household, uses the vehicle ((is:~~

~~(A) Necessary for employment; or~~

~~(B) Necessary for the treatment of a specific or regular medical problem; or~~

~~(C) Modified for operation by, or transportation of, a handicapped person; or~~

~~(D) Necessary due to climate, terrain, distance, or similar factors to provide the client transportation to perform essential daily activities.~~

~~(ii) Exempt one of the client's vehicles up to the extent its current market value does not exceed four thousand five hundred dollars;~~

~~(iii) Count any excess against the resource limit;~~

~~(iv) Exempt a vehicle under this subsection only if a vehicle is not exempt under (e)(i) of this subsection;~~

~~(v) Treat the client's ownership of other vehicles as nonexempt resources and count the equity value toward the resource limit.~~

~~(d)) as described under 20 CFR 416.1218 (b)(1).~~

~~(e) Property essential to self-support (the department shall exempt):~~

~~(i) (Property) Regardless of value, when the client uses the property for income-producing activity:~~

~~(A) In a trade or business; or~~

~~(B) As an employee for work (or~~

~~(C) As authorized by the government for income-producing activity)).~~

~~(ii) Nonbusiness property up to six thousand dollars in equity, when the client uses the property for producing:~~

~~(A) Goods or services essential to daily activities, solely for the client's household;~~

~~((iii) Nonbusiness property up to six thousand dollars equity, when the client uses the property to produce))~~

~~(B) An annual income return of six percent or more of the exempt equity; or (is expected to produce at least))~~

~~(C) A six percent return within a twenty-month period ((as long as)) when the client (:~~

~~(A) Currently)) uses the property, or is expected to resume using the property within twelve months in the activities described in subsection (1)((d)) (e) of this section (or~~

~~(B) Is expected to resume using the property in the activities described in subsection (1)(d) of this section within twelve months;~~

~~(e)):~~

~~(f) Resources necessary for a blind or disabled client to fulfill an approved self-sufficiency plan ((for a blind or disabled client to achieve self-support as long as such plan remains in effect;~~

~~(f)):~~

~~(g) Alaska Native Claims Settlement Act including:~~

~~(i) Shares of stock held in a regional or village corporation;~~

~~(ii) Cash ((received)) or dividends on stock received from a native corporation (including cash dividends on~~

~~stock received from a native corporation)) up to ((the extent the cash does not exceed)) two thousand dollars per person per year;~~

~~(iii) Stock issued ((or distributed)) by a native corporation as a dividend ((or distribution on the stock));~~

~~(iv) A partnership interest;~~

~~(v) Land or an interest in land ((including land or an interest in land received from a native corporation, as a dividend or distribution on stock)); and~~

~~(vi) An interest in a settlement trust.~~

~~((g) Life insurance:~~

~~(i) The department shall exempt the total cash surrender value when the total face value of all policies held by each person is one thousand five hundred dollars or less;~~

~~(ii) The cash surrender value applies to the resource limit under WAC 388-511-1110 if the face value of all policies held by each person is over one thousand five hundred dollars; and~~

~~(iii) When determining total face value in subsection (1)(g)(i) of this section, the department shall not include term or burial insurance with no cash surrender value.))~~

~~(h) The total cash surrender value (CSV) of a life insurance policy or policies when the total face value of all policies held by the client is one thousand five hundred dollars or less. For a client whose policies have a total face value of more than one thousand five hundred dollars apply the CSV to the resource limit described under WAC 388-511-1110.~~

~~(i) Restricted allotted land owned by an enrolled tribal member and spouse, ((if married,)) if ((such)) the land cannot be ((sold, transferred, or otherwise)) disposed of without the permission of other persons, the tribe, or an agency of the federal government;~~

~~((f)) (j) A settlement the client receives for the purpose of repairing or replacing a specific exempt resource for a period of:~~

~~(i) Nine months when the client uses the total amount of the cash to repair or replace the exempt resource;~~

~~(ii) Nine additional months when:~~

~~(A) Circumstances beyond the control of the client prevent the repair or replacement of the exempt resource; and~~

~~(B) The client uses the total amount of the cash to repair or replace the exempt resource; and~~

~~(iii) Twelve additional months, for a maximum of thirty months, when:~~

~~(A) The settlement is a result of a catastrophe which is declared a major disaster by the President of the United States;~~

~~(B) The exempt resource is geographically within the disaster area as defined by the presidential order;~~

~~(C) The client intends to repair or replace the exempt resource; and~~

~~(D) Circumstances beyond the control of the client prevented the repair or replacement of the exempt resource in the time frames described under subsection (1)((f)) (j)(i) and (ii) of this section.~~

~~(iv) ((The department shall consider)) Except, any settlement excluded and not used within the allowable time period as described under subsection (1)((f)) (j) of this section as an available resource.~~

~~((f))~~ (k) Burial spaces for the client, the client's spouse, or any member of the client's immediate family ~~(-)~~ including:

~~(i) ((The department shall consider burial spaces includes))~~ Conventional grave sites ~~(-)~~;

~~(ii)~~ Crypts ~~(-)~~;

~~(iii)~~ Mausoleums ~~(-)~~;

~~(iv)~~ Urns ~~(-)~~ and other repositories customarily ~~((and traditionally))~~ used for the remains of deceased persons ~~(-)~~;

~~(ii) The department shall consider burial spaces as including); or~~

(v) A burial space purchase agreement as well as any interest accrued on and left to accumulate as part of the value of the burial space purchase agreement.

~~((iii))~~ For purposes of subsection (1) ~~((f) and)~~ (k) of this section, "immediate family" means a client's minor and adult children, including adopted children and stepchildren; a client's brothers, sisters, parents, adoptive parents, and the spouses of those persons. ~~((The department shall not consider))~~ Dependency or living-in-the-same-household ~~((as))~~ are not factors in determining whether a person is an immediate family member;

~~((k))~~ Burial funds:

~~(i) The department shall ensure funds specifically set aside for the burial arrangements of a client or the client's spouse not exceed one thousand five hundred dollars for each spouse. The department shall count burial funds in excess of this limit toward the resource limit in WAC 388-511-1110.~~

~~(ii) The department shall require funds set aside for burial expenses to be kept separate from all other resources and separately identified and designated as set aside for burial. If the exempt burial funds are mixed with other resources, the department shall not apply this exemption to any portion of the funds unless the client intends to use the nonexempt funds for burial related items or services. The department may exempt designated burial funds retroactively back to the first day of the month in which the person intended the funds to be set aside for burial.~~

~~(iii) Funds set aside for burial include revocable burial contracts, burial trusts, other burial arrangements, cash, accounts, or other financial instruments with a definite cash value the person clearly designates as set aside solely for the person's or spouse's burial expenses.~~

~~(iv) The department shall reduce the one thousand five hundred dollar exemption by:~~

~~(A) The face value of the client's insurance policies owned by the person or spouse on the life of the person if the policies have been exempted as provided in subsection (1)(g) of this section; and~~

~~(B) Amounts in an irrevocable burial trust.~~

~~(v) The department shall exempt the interest earned on exempt burial funds and appreciation in the value of exempt burial arrangements if the exempt interest and appreciation are left to accumulate and become part of the separately identified burial fund.~~

~~(vi) When used for other purposes, the department shall consider as available income any exempt burial funds, interest, or appreciated values set aside for burial expenses if, at the first of the month of use, when added to other nonexempt resources, the total exceeds the resource limit;))~~

(l) Burial funds:

(i) Up to one thousand five hundred dollars each for a client or a client's spouse when funds are specifically set aside solely for burial expenses;

(ii) In a revocable burial contract, burial trust, cash, account, or other financial instrument with a definite cash value; and

(iii) Including interest earned and appreciation in the value of exempt burial funds when left to accumulate and become part of the burial fund;

(iv) "Specifically set aside solely for burial expenses" means funds:

(A) Kept separate from all other resources except nonexempt funds the client intends to use solely for burial-related items or services and identified as a burial fund; and

(B) Which may be designated as burial funds back to the first day of the month in which the person intended the funds to be set aside for burial.

(v) Limitation described under subsection (1)(l)(i) of this section is reduced by:

(A) The face value of insurance policies owned by the client or spouse if the policies have been exempted as provided in subsection (1)(h) of this section; and

(B) Amounts in an irrevocable burial trust.

(vi) Except:

(A) Burial funds mixed with other resources lose exemption status; or

(B) When any exempt burial funds, interest, or appreciated values are used for another purpose, the funds are considered as available income if, at the first of the month of use, when added to other nonexempt resources, the total exceeds the resource limit.

(m) Other resources considered exempt by federal statute;

~~((m))~~ (n) Retroactive SSI payments, including benefits a client receives under the interim assistance reimbursement agreement with the Social Security Administration, or OASDI payments for six months following the month of receipt. This exemption applies to:

(i) Payments received by the client, spouse, or any other financially responsible person ((received that the department considers available to meet the client's needs));

(ii) SSI payments made to the client for benefits due for a month before the month of payment;

(iii) OASDI payments made to the client for benefits due for a month that is two or more months before the month of payment; and

(iv) Payments that remain in the form of cash, checking accounts, or saving accounts. ((The department shall not apply)) This exemption does not apply once the retroactive payment has been converted to any other form.

~~((n))~~ Payments for medical or social services, for one calendar month following the month of receipt, certain))

(o) Cash payments an SSI person receives from a ((governmental or nongovernmental)) medical or social service agency to pay for medical or social services for one calendar month following the month of receipt;

~~((o))~~ (p) Restitution payment and any interest earned from ((such)) the payment to persons of Japanese or Aleut ancestry relocated and interned during war time, under P.L. 100-383;

~~((p))~~ (q) The annuity payment of trust funds to Puyallup Tribal Indians received under P.L. 101-41;

~~((q))~~ (r) Funds received from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims under P.L. 101-201;

~~((r))~~ (s) Payments from the Dutch government under the Netherlands' Act on Benefits for Victims of Persecution (WUV). See WAC 388-511-1140 (1)(aa) for the treatment of interest earned on such payment.

~~((s))~~ (t) Payments to ~~((ertain))~~ survivors of the Holocaust under the Federal Republic of Germany's Law for Compensation of National Socialist Persecution or German Restitution Act. Interest earned on ~~((onserved))~~ payment is not exempt;

~~((t))~~ Unspent assistance payments the client receives because of a presidential declaration of a major disaster, under P.L. 93-288, are exempt for nine months from the date of receipt.

~~((i))~~ The department shall determine the exemption may extend an additional nine months, if circumstances beyond the client's control:

(A) Prevents the client from repairing or replacing the damaged or destroyed property; or

(B) Keeps the client from contracting for such repair or replacement.

(ii) Interest earned on the exempt resource is exempt for the period the exemption applies;

(u) Earned income tax credit refunds and payments are exempt during the month of receipt and the following month;

(v) Payments from a state administered victim's compensation program for a period of nine calendar months after the month of receipt;

(w) Payments, or interest accrued on payments received under the Radiation Exposure Compensation Act received by the injured person, the surviving spouse, children, grandchildren, or grandparents;

(x) Payments under section 500 through 506 of the Austrian General Social Insurance Act. The department shall:

(i) Not consider such payments as income or resources for determining eligibility or post-eligibility; and

(ii) Count the interest from such payments as unearned income for the client;

(y) Payments from *Susan Walker v. Bayer Corporation, et al., 96-C-5024 (N.D. Ill.) (May 8, 1997) settlement funds.*

(2) ~~((The department shall consider))~~ A sales contract is an:

(a) ~~((An))~~ Exempt resource when the current market value of the contract:

(i) Is zero or the contract is unsalable; or

(ii) When combined with other resources, exceeds the resource limit, and the sales contract was executed:

(A) On or before November 30, 1993; or

(B) On or after December 1, 1993, and:

(I) Was received as compensation for the sale of the client's principal place of residence ~~((For an institutionalized client, this rule shall apply only to the client's principal place of residence before institutionalization of the client));~~ ~~((and))~~

(II) Provides for an interest rate within prevailing rates at the time of the sale; ~~((and))~~

(III) Requires the repayment of a principal amount equal to the fair market value of the property; and

(IV) Payment on the amount owed does not exceed thirty years.

~~((The department shall consider payment))~~ Refer to WAC 388-505-0590 (4)(b) for treatment of principal and interest on a sales contract meeting the criteria of subsection (2)(a)(i) or (ii) of this section ~~((under WAC 388-505-0590 (4)(b)));~~

(b) ~~((An))~~ Available resource when the ~~((current market value of a))~~ sales contract does not meet the requirements in subsection (2)(a)(i) or (ii) of this section. For a sales contract the department determines to be an available resource, ~~((the department shall consider))~~ the payment that represents:

(i) Principal, is an available resource; and

(ii) Interest, ~~((under))~~ refer to WAC 388-505-0590 (4)(c).

(c) ~~((An))~~ Available resource when transferred by the client to a person other than the client's spouse. See WAC 388-513-1365 ~~((and~~

~~((d))~~ An exempt resource to the extent the proceeds from the sale of a home are used to purchase another home. The department shall not consider payments received under such sales contract as income as described under subsection ~~((1)(a)(iii) of this section))~~.

(3) ~~((The department shall consider))~~ Cash received from the sale of an exempt resource ~~((as))~~ is a nonexempt resource ~~((to the extent that))~~ unless the cash is ~~((not))~~:

(a) Used to replace an exempt resource; or

(b) Invested in an exempt resource within the same month, unless specified differently under this section.

#### WSR 98-04-038

#### PERMANENT RULES

#### DEPARTMENT OF HEALTH

[Filed January 29, 1998, 3:58 p.m.]

Date of Adoption: January 23, 1998.

Purpose: To define a process for trauma service designation and establish minimum standards for designated trauma care services to include Level I-V, Pediatric Level I-III, Rehabilitation Level I-III and Pediatric Rehabilitation Level I.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-976-470, 246-976-475, 246-976-480, and 246-976-880; and amending WAC 246-976-485 through 246-976-890.

Statutory Authority for Adoption: Chapter 70.168 RCW.

Adopted under notice filed as WSR 97-24-102 on December 3, 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 7, amended 26, repealed 4.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 7, amended 26, repealed 4.

Number of Sections Adopted using Negotiated Rule Making: New 7, amended 26, repealed 4; 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.

January 27, 1998

Bruce Miyahara

Secretary

## NEW SECTION

**WAC 246-976-485 Designation of facilities to provide trauma care services.** (1) The department designates trauma services as part of the comprehensive, state-wide emergency medical services and trauma care system. This section and WAC 246-976-490 describe the designation process. WAC 246-976-500 through 246-976-890 identify standards for trauma services. The department uses a competitive process to select designated services, including:

(a) An application schedule. You will have at least ninety days to complete the application;

(b) A description of the documents you must submit to demonstrate that you meet the standards;

(c) An on-site review fee schedule. You must pay any required fees at least thirty days before an on-site review;

(d) The department's evaluation criteria; and

(e) The department's decision criteria.

(2) To apply for trauma service designation, you must:

(a) Send a notice of intent to the department by the time required in the application schedule;

(b) Submit a completed application by the time required in the application schedule. If you are applying for multiple designation, you must submit a separate application for each level and category of designation for which you are applying.

If you represent more than one facility applying for joint designation, you must submit a single application for each level and category. The department's evaluation of joint applications will use the same criteria as for a single facility designation.

(c) Provide the department's on-site review team access to your facility, staff, and all documents concerning trauma care. This will include at least your standards of care, policy and procedures, patient care records, trauma quality assurance/improvement materials, and other relevant documents.

(3) The department must conduct an on-site review of your facility before you can be designated as level I, II or III trauma care service, or level I, II or III pediatric trauma care service. The department will use a multidisciplinary team to conduct this review.

(a) For level I and II services, the department will only choose members for the review team who live or work outside your state.

(b) For level III services, the department will only choose members for the review team who live or work outside your region.

(c) The department will provide you with the names of members of the review team. You should send any objections to the department within ten days of notification.

(d) The team will give an oral report of preliminary findings before leaving your facility.

(e) The department and the team will maintain confidentiality of information, records, and reports developed pursuant to on-site reviews in accordance with the provisions of RCW 70.41.200 and 70.168.070.

(f) The department will conduct an on-site review within eighteen months of designating a joint service, to confirm that you meet the requirements of this chapter. This requirement shall not be construed to limit the department's right to conduct an on-site review at any earlier or later time, or to limit its authority under WAC 246-976-490 to suspend or revoke designation for cause at any time prior to the on-site review of the jointly designated trauma care service.

(4) The department may conduct an on-site review of your facility if you applied for designation as a level IV or V trauma care service, as a level I-III trauma rehabilitation service, or as a level I-pediatric trauma rehabilitation service.

(5) After designation as a trauma service, you may ask the department to conduct an on-site survey for technical assistance. The department may require you to reimburse its costs for conducting the survey.

(6) The department will designate the health care facilities it considers most qualified to provide trauma care services. The decision to designate will be based on at least the following:

(a) Evaluation of all applications submitted;

(b) Recommendations from the on-site review team;

(c) Trauma patient outcomes during the previous designation period;

(d) The impact of designation on the effectiveness of the trauma care system;

(e) Expected patient volume of the area;

(f) The number, levels, and distribution of designated health care facilities established in the state and regional EMS/TC plans;

(g) Ability of each applicant to comply with goals of the state and regional EMS/TC plans; and

(h) Each applicant's compliance with its designation contract during the previous designation period.

(7) The department will notify you in writing of its designation decision. It will also provide you with a written report summarizing its review of your application, any on-site review findings, and any decisions:

(a) In regions where there is competition for designation, the department will send you the report within ninety days of announcing its decisions. There is competition for designation in any region where the number of applications for a level and type of designation is more than the maximum number of services identified in the state plan.

(b) In regions where there is no competition, the department will send you the report within ninety days of the on-site review.

(8) The department will notify regional EMS/TC councils of the name, location, and level of services that have been designated in their regions.

(9) The department will not approve your application if it finds that your facility:

(a) Is not the most qualified applicant, if there is competition for designation;

(b) Does not meet the requirements of this chapter for the level you applied for;

(c) Does not meet the requirements of the approved regional plan;

(d) Has made a false statement about a material fact in its application for designation; or

(e) Refuses to allow the department to inspect any part of your facility that relates to the delivery of trauma services, including records, documentation, or files.

(10) If the department denies an application for trauma service designation, the department will notify you in writing, including the reasons for its action and explaining your rights. You may appeal the department's decisions. Your appeal must follow the requirements of chapter 34.05 RCW and chapter 246-10 WAC. Send your appeal to the adjudicative clerk's office at the address indicated on the notice of decision.

(11) The department may:

(a) Consider applications from facilities located and licensed in adjacent states in the same manner as applications received from facilities located and licensed in Washington;

(b) Consider the administrative findings, conclusions and determination of an adjacent state to determine if you meet Washington standards. The department may request additional information. The department will base its decision on these considerations only if:

(i) There is no competition in the region for designation at the level/category you applied for; and

(ii) Your facility is located in an adjacent state that has an established trauma care system, with standards that meet or exceed Washington standards; and your facility is designated by your state to provide trauma service;

(c) Provisionally designate trauma services that are not able to meet all the requirements of this chapter, if this is necessary to ensure adequate trauma care in an area. The provisional designation will not be for more than two years;

(d) Consider additional applications without regard to the schedule, if this is needed to ensure adequate coverage according to the state plan.

(12) You and the department must agree to a contract to provide trauma services. The contract will include at least:

(a) Your authority to provide trauma services for a three-year period;

(b) Both the department's and your contractual and financial requirements and responsibilities;

(c) Allowance for the department to monitor your compliance with trauma service standards;

(d) Allowance for the department access to discharge summaries for trauma patients, patient care logs, trauma patient care records, hospital trauma care quality assurance/improvement materials, including minutes, and other relevant documents;

(e) A requirement for confidentiality of information relating to individual patient's, provider's, and facility's care outcomes.

(13) The department will notify all interested parties of the application process and schedule at least one hundred fifty days before the expiration of designation in each region.

## NEW SECTION

**WAC 246-976-490 Suspension or revocation of designation.** The Administrative Procedure Act, chapter 34.05 RCW, and chapter 246-10 WAC govern the process of suspending or revoking trauma service designation.

(1) The department may suspend or revoke your trauma service designation if the designated facility and/or any owner, officer, director, or managing employee:

(a) Is substantially out of compliance with the requirements of this chapter and chapter 70.168 RCW, and has been unable or unwilling to comply as required by the department;

(b) Makes a false statement of a material fact in the application for designation, or in any record required by this chapter, or in a matter under investigation;

(c) Prevents, interferes with, or attempts to impede in any way, the work of a representative of the department in the lawful enforcement of this chapter or chapter 70.168 RCW;

(d) Uses false, fraudulent, or misleading advertising, or makes any public claims regarding the facility's ability to care for nontrauma patients based on its trauma care designation status;

(e) Misrepresents or is fraudulent in any aspect of conducting business.

(2) The department will use the following process to suspend trauma service designation:

(a) The department will notify you in writing if it intends to suspend your designation. It will send the notice at least twenty-eight days before it takes action, unless it is a summary suspension as provided for in the Administrative Procedure Act. The notice will include the reasons for the action, and describe your right to a hearing to contest the department's notice of intent to suspend your designation. If you request a hearing within twenty-eight days of the date the notice was mailed to you, a hearing before a health law judge will be scheduled. If you do not request a hearing within twenty-eight days of the date the notice was mailed to you, the suspension becomes final.

(b) You may submit a plan to the department within twenty-eight days after service of the department's notice of intent to suspend your designation, describing how you will correct deficiencies. The department will approve or disapprove your plan within thirty days of receiving your plan. If the department approves your plan, you must begin to implement it within thirty days. You must notify the department when the problems are corrected. When you have shown the department that you are meeting the requirements of chapter 70.168 RCW and this chapter, which may require a site review, the department will withdraw its notice of intent to suspend your designation or will otherwise reinstate designation if a final decision suspending designation has already occurred.

(c) The department will notify the regional EMS/TC council of the actions it has taken.

(3) The department will use the following process to revoke designation:

(a) The department will notify you in writing if it intends to revoke your designation. It will send the notice at least twenty-eight days before it takes action, unless it is a summary revocation as provided for in the Administrative Procedure Act. The notice will include the reasons for the

action, and describe your right to a hearing to contest the department's notice of intent to revoke your designation. If you request a hearing, a hearing before a health law judge will be scheduled. If you do not request a hearing within twenty-eight days of the date the notice was mailed to you, the revocation becomes final.

(b) The department will notify the regional EMS/TC council of the actions it has taken.

(4) You may appeal final decisions to superior court under the Administrative Procedure Act, chapter 34.05 RCW.

**AMENDATORY SECTION** (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-500 Designation standards for facilities providing level I trauma care ((hospital) service—Administration and organization. A facility with a designated level I trauma care service shall have:**

(1) ~~((For the purpose of administering trauma care, a designated level I hospital shall have a trauma service, including:))~~

(a) Organization and direction by a general surgeon ~~((who is expert in, and committed to,))~~ with special competence in care of the injured. The service may have as codirector another general surgeon with special competence in care of the injured;

(b) Ongoing coordination of the trauma care service by a registered nurse with special competence in care of the injured;

(c) A multidisciplinary trauma committee chaired by the trauma service director with input to hospital management, including:

(i) An emergency physician;

(ii) An ~~((ED))~~ emergency department registered nurse;

(iii) A ~~((trauma))~~ general surgeon with special competence in trauma care;

(iv) A neurosurgeon;

(v) An orthopaedic surgeon;

(vi) A pediatrician;

(vii) An anesthesiologist;

(viii) ~~The physician director of ((intensive)) critical care ((unit)) service;~~

(ix) ~~((An intensive))~~ The trauma care service nurse coordinator;

(x) Critical care registered nurse; and

~~((\*))~~ (xi) The trauma rehabilitation coordinator;

(d) ~~The multidisciplinary trauma committee shall adopt an approved method to determine activation of the trauma team, as described in WAC 246-976-870.~~

(e) A trauma ~~((resuscitation))~~ team to provide initial evaluation, resuscitation and treatment.

(i) The team shall be organized and directed by a general surgeon ~~((who is expert in and committed to))~~ with special competence in care of the injured, and who assumes responsibility for coordination of overall care of the trauma patient. The surgeon shall be at least a post-graduate year four resident;

(ii) All members of the team, including the surgeon, shall be ~~((in-house and))~~ available within five minutes of notification of team activation;

(iii) The team shall include an emergency physician who is:

(A) Responsible for activating the ~~((trauma resuscitation))~~ team, using an approved ~~((seering system))~~ method as defined in WAC 246-976-870; and

(B) Responsible for providing team leadership and care for the trauma patient until the arrival of the general surgeon in the resuscitation area;

(iv) ~~((Other members of the team shall be as specified in the hospital's application for designation;))~~ The trauma care service shall identify all other members of the team;

~~((e))~~ (f) Specific delineation of trauma surgery privileges by the medical staff.

(2) ~~((A level I trauma care hospital shall have))~~ An ~~((ED))~~ emergency department with ~~((established))~~ written standards ~~((and procedures))~~ of care to ensure immediate and appropriate care for adult and pediatric trauma patients.

(3) A ~~((level I trauma care hospital shall have a))~~ surgery department, including:

(a) General surgery ~~((, including an attending surgeon, in-house and available on patient's arrival in the ED, assuming five minute notification));~~

(b) ~~((Neurosurgery))~~ A neurosurgical service. Coverage shall be available within five minutes of notification of team activation. Coverage shall be provided by:

(i) ~~((In-house and available within five minutes. In-house coverage shall be provided by a board certified))~~ A neurosurgeon ~~((, or by a surgeon who has been judged competent by the neurologic consultants on staff to initiate measures to stabilize the patient, and to initiate diagnostic procedures; and));~~ or

(ii) ~~((With a board certified neurosurgeon on call and available within thirty minutes;))~~ A surgeon who has been judged competent by the neurosurgical consultants on staff to initiate measures to stabilize the patient, and to initiate diagnostic procedures, with a board-certified neurosurgeon on-call and available within thirty minutes of notification of team activation.

(c) The following surgical services on-call and available within thirty minutes of request by the trauma team leader:

(i) Cardiac surgery;

(ii) Gynecologic surgery;

~~((iii))~~ (iii) Hand surgery;

~~((iii))~~ (iv) Microsurgery;

~~((iv))~~ (v) Obstetric surgery;

~~((v))~~ (vi) Ophthalmic surgery;

(vii) Oral/maxillofacial or otorhinolaryngologic surgery;

(viii) Orthopaedic surgery;

~~((vi))~~ Otorhinolaryngologic/maxillofacial surgery capable of managing upper airway trauma;

~~((vii))~~ (ix) Pediatric surgery;

(x) Plastic surgery;

~~((viii))~~ (xi) Thoracic surgery; ~~((and~~

~~((ix))~~ (xii) Urologic surgery; and

(xiii) Vascular surgery.

(4) ~~((A level I trauma care hospital shall have))~~ Nonsurgical specialties including:

(a) Anesthesiology, with an anesthesiologist who is:

(i) ~~((Is))~~ ACLS trained, except this requirement shall not apply to a physician board-certified in anesthesiology;

(ii) ~~((Is in-house and))~~ PALS or approved equivalent trained;

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(iii) Available within five minutes of notification of team activation;

(b) A radiologist on-call and available for patient service within twenty minutes of notification of team activation;

(c) The following services on-call and available (~~(within thirty minutes)~~) for patient consultation or management:

- (i) Cardiology;
- (ii) Gastroenterology;
- (iii) Hematology;
- (iv) Infectious disease specialists;
- (v) Internal medicine;
- (vi) Nephrology;
- (vii) Neurology;
- (viii) Pathology;
- ~~((viii)) (ix) Pediatrics; and~~
- ~~((ix)) (x) Pulmonology(~~(-and~~~~
- (d) ~~Psychiatry~~).

(5) ~~((A level I trauma care hospital shall have))~~ Written policy and procedures for access to ancillary services, including:

- (a) Chemical dependency services;
- (b) Child and adult protection services;
- (c) Clergy or pastoral care;
- (d) Nutritionist services;
- (e) Occupational therapy services;
- (f) Pharmacy services, with a pharmacist in-house;
- (g) Physical therapy services;
- (h) Rehabilitation services;
- (i) Social services;
- (j) Psychological services; and
- (k) Speech therapy services.

(6) A pediatric trauma policy that:

(a) Provides for initial stabilization and resuscitation of pediatric trauma patients, including ~~((ED))~~ emergency department and surgical interventions; and

~~((If it is not a level I pediatric hospital, includes written provision to transfer the patient to the appropriate level designated pediatric trauma facility after initial resuscitation and stabilization.))~~ If the facility is not designated as a pediatric trauma care service, identifies and establishes its scope of pediatric trauma care, including but not limited to:

- (i) Criteria for admission of pediatric patients;
- (ii) Written transfer guidelines and agreements for pediatric trauma patients requiring critical care services.

~~((6) A level I trauma care hospital shall have an approved))~~ (7) A written policy and procedures to divert patients to other designated ~~((facilities,))~~ trauma care services. The policy shall be based on ~~((it's))~~ criteria which reflect the service's ability to ~~((manage))~~ resuscitate and stabilize each patient at a particular time.

~~((7) A level I trauma care hospital shall:))~~ (8) A trauma registry as required in WAC 246-976-430.

~~((a) Have))~~ (9) A quality assurance program in accordance with WAC 246-976-880; and ~~((b))~~ cooperate with regional trauma care quality assurance programs throughout the state established pursuant to WAC 246-976-910.

(10) Interfacility transfer guidelines and agreements consistent with WAC 246-976-890.

AMENDATORY SECTION (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

WAC 246-976-510 Designation standards for facilities providing level I trauma care ~~((hospitals))~~ service—Basic resources and capabilities. ~~((+))~~ A facility with a designated level I trauma care ~~((hospital))~~ service shall have ~~((an ED with))~~:

(1) An emergency department with:

(a) A physician director who ~~((is))~~:

(i) ~~(A) Is board-certified ~~((or-eligible))~~ in emergency medicine, surgery ~~((or-medicine))~~ or other relevant specialty; or ~~((with))~~~~

(B) Has documented experience as director of an emergency department which has been previously recognized as a level I trauma center either by a regional entity or as verified by the Committee on Trauma of the American College of Surgeons;

(ii) Is ATLS and ACLS trained, except this requirement shall not apply to a physician board-certified in emergency medicine; and

(iii) ~~((ACLS-trained;))~~ Is PALS or approved equivalent trained, except that this requirement shall not apply to a physician board-certified in pediatric emergency medicine.

(b) ~~((Emergency))~~ Physicians who ~~((are))~~:

(i) Are board-certified ~~((or-eligible))~~ in emergency medicine, or board-certified in a specialty and practicing emergency medicine as their primary practice with special ~~((competency))~~ competence in care of trauma patients; (this requirement may be met by a surgical resident post graduate year two who is ATLS, ACLS, and PALS or approved equivalent trained, working under the direct supervision of the ~~((physician director of the emergency department))~~ attending emergency physician, until the arrival of the ~~((attending))~~ surgeon~~((—The attending surgeon shall be in-house and available upon the patients arrival in the ED, assuming five minute notification))~~ to assume leadership of the trauma team);

(ii) ~~((In-house and))~~ Are available within five minutes ~~((to patient on arrival to ED))~~ of patient's arrival in the emergency department;

(iii) Are ATLS and ACLS trained, except ~~((that))~~ this requirement shall not apply to a physician board-certified in emergency ~~((physicians))~~ medicine;

(iv) ~~((ACLS-trained;))~~

~~((v))~~ Are PALS or approved equivalent trained, except this requirement shall not apply to a physician board-certified in pediatric emergency medicine; and

~~((vi) Designated))~~ (v) Are designated as members of the trauma team;

(c) ~~((ED))~~ Registered nurses who:

(i) Are ACLS trained;

(ii) Are PALS or approved equivalent trained;

(iii) Have ~~((taken))~~ successfully completed a trauma life support course as defined in WAC 246-976-885; and

(iv) Are in the ~~((ED))~~ emergency department and available ~~((to the patient))~~ within five minutes of patient's arrival in the emergency department; ~~((with at least two RNs on duty per shift;))~~

(d) An area designated for adult and pediatric resuscitation, with equipment for resuscitation and life support of



pediatric and adult trauma patients, including ~~(±)~~ equipment described in WAC 246-976-620;

- ~~((i) Airway control and ventilation equipment including:~~
- ~~(A) Airways;~~
  - ~~(B) Laryngoscopes, including curved and straight;~~
  - ~~(C) Endotracheal tubes of all sizes;~~
  - ~~(D) Bag mask resuscitator, with full range of sizes, neonatal to adult;~~
  - ~~(E) Sources of oxygen; and~~
  - ~~(F) Mechanical ventilation;~~
- ~~(ii) Suction devices, including:~~
- ~~(A) Back-up suction source;~~
  - ~~(B) Pediatric and adult suction catheters; and~~
  - ~~(C) Tonsil suction tip;~~
- ~~(iii) Electrocardiograph;~~
- ~~(iv) Cardiac monitor;~~
- ~~(v) Defibrillator, including pediatric paddles;~~
- ~~(vi) All standard apparatus to establish central venous pressure monitoring;~~
- ~~(vii) All standard intravenous fluids and administering devices for adult and pediatric patients, including intravenous and intraosseous needles;~~
- ~~(viii) Sterile surgical sets for procedures standard for ED such as thoracostomy and cut down, including adult and pediatric sets;~~
- ~~(ix) Gastric lavage equipment;~~
  - ~~(x) Drugs and supplies necessary for emergency care, including pediatric emergency care;~~
  - ~~(xi) Capability for rapid infusion of fluids;~~
  - ~~(xii) Capability for rapid fluid recovery and transfusion;~~
  - ~~(xiii) X-ray capability with twenty-four hour coverage by in-house technician;~~
  - ~~(xiv) Thermal control equipment for:~~
    - ~~(A) Patient;~~
    - ~~(B) Blood;~~
  - ~~(xv) Two-way radio linked with EMS/TC vehicles;~~
  - ~~(xvi) Pneumatic anti-shock garments, all sizes; except, pediatric are sizes optional depending on local protocol;~~
  - ~~(xvii) Cervical injury immobilization device;~~
  - ~~(xviii) Long bone stabilization device;~~
  - ~~(xix) Backboard;~~
  - ~~(xx) Equipment specific to pediatric trauma care, including:~~
    - ~~(A) Traction splint;~~
    - ~~(B) Blood pressure cuffs in infant, child sizes;~~
    - ~~(C) Foley catheters;~~
    - ~~(D) Rigid cervical collars;~~
    - ~~(E) Doppler;~~
    - ~~(F) Infant scale for accurate weight measurement under twenty-five pounds;~~
    - ~~(G) Temperature controlled heating units, with/without open crib;~~
    - ~~(H) Heating/cooling blankets;~~
    - ~~(I) Heat lamp;~~
    - ~~(J) Hypothermia thermometers;~~
    - ~~(K) Expanded scale electronic thermometers;~~
    - ~~(L) Device for assuring maintenance of infant warmth during evaluation and transport;~~
    - ~~(M) Nasogastric/feeding tubes;~~
    - ~~(N) Noninvasive BP monitor; and~~
    - ~~(O) Pulse oximetry.)~~

(e) Routine radiological capabilities by a technician available within five minutes of notification of team activation.

~~(2) A ((level I trauma care hospital shall have a general)) surgery department including:~~

~~(a) An attending general surgeon ((who is in-house and)) available ((upon the patient's arrival in the ED, assuming)) within five minutes of notification of team activation, except as provided in (b) of this subsection. The attending surgeon shall:~~

~~(i) Provide trauma team leadership upon arrival in the resuscitation area;~~

~~(ii) Be board-certified; ((or have graduated from a residency program accredited by the accreditation council of graduate medical education, but who is less than five years out of training;~~

~~((ii)) (iii) Have ((general)) trauma surgery privileges as delineated by the medical staff; ((or))~~

~~(b) A post-graduate year four or above surgical resident may initiate evaluation and treatment upon the patient's arrival in the ((ED)) emergency department until the arrival of the attending surgeon. In this case the attending surgeon shall be available within twenty minutes ((upon)) of notification of team activation. ((The resident shall have ATLS and PALS or approved equivalent training.))~~

~~(c) ((All trauma surgeons trained in ACLS;)) All general surgeons and surgical residents who are responsible for care and treatment of trauma patients shall be trained in:~~

~~((d) All trauma surgeons trained in)) (i) ATLS and ACLS, except ((that)) this requirement shall not apply to a physician board-certified ((surgeons)) in surgery; and~~

~~((e) All trauma surgeons trained in)) (ii) PALS or approved equivalent.~~

~~(3) ((A level I trauma care hospital shall have)) An operating ((suite)) room available within five minutes of notification of team activation, with:~~

~~(a) ((An operating room adequately staffed and available within five minutes after notification;)) A registered nurse or designee of the operating room staff who is available within five minutes of notification of team activation to open the operating room, and to coordinate responsibilities to ensure the operating room is ready for surgery upon arrival of the patient, the surgeon, and the anesthesiologist;~~

~~(b) ((Essential personnel, including at least one OR nurse, in-house and available twenty-four hours a day;~~

~~(e)) A ((documented method)) written policy providing for ((prompt)) mobilization of ((consecutive)) additional surgical teams for trauma patients; and~~

~~((d) Equipment or capabilities including:~~

~~(i) Cardiopulmonary bypass capability;~~

~~(ii) Operating microscope;~~

~~(iii) Thermal control equipment for patients;~~

~~(iv) Thermal control equipment for blood;~~

~~(v) Rapid infusion capability;~~

~~(vi) Rapid fluid recovery capability;~~

~~(vii) X-ray capability;~~

~~(viii) Bronchoscope in operating room;~~

~~(ix) Endoscopes available from elsewhere in the facility;~~

~~(x) Craniotome;~~

~~(xi) Monitoring equipment; and~~

~~(xii) Instruments and equipment appropriate to pediatric trauma care.)) (c) Instruments and equipment appropriate for~~

pediatric and adult surgery, including equipment described in WAC 246-976-620.

(4) A ~~((level I trauma care hospital shall have a))~~ post anesthetic recovery unit with:

(a) Essential personnel, including at least one registered nurse ~~((with critical post anesthetic nurse training, in-house and))~~ available twenty-four hours a day;

(b) ~~((AH))~~ Nurses ACLS trained; (and)

(c) Nurses PALS or approved equivalent trained; and

(d) Appropriate monitoring and resuscitation equipment.

(5) A ~~((level I trauma care hospital shall have an intensive))~~ critical care (unit) service with:

(a) A medical director of the surgical critical care unit who is:

(i) Board-certified ((or eligible)) in ((critical care, pulmonary medicine, cardiology, or)) surgery with special competence in critical care;

(ii) ATLS and ACLS trained, except this requirement shall not apply to a physician board-certified in surgery; (and)

(iii) ~~((ATLS trained;))~~ Responsible for coordinating with the attending staff for the care of trauma patients, including:

(A) Development and implementation of policies;

(B) Coordination of medical care;

(C) Determination of patient isolation;

(D) Authority for patient placement decisions;

(E) Equipment;

(F) Coordination of staff education;

(G) Coordination of statistics;

(H) Identification of criteria for reviewing quality of care on all critical care unit trauma patients, in conjunction with the trauma service medical director;

(b) A physician ~~((on duty in the ICU twenty-four hours a day, or who is in-house and))~~ with special competence in critical care available in the critical care unit within five minutes of notification;

(c) A physician directed code team;

(d) ~~((ICU))~~ Critical care unit registered nurses with special competence in trauma care, who:

(i) Are ACLS trained; and

(ii) Have ~~((taken))~~ successfully completed a trauma life support course as defined in WAC 246-976-885;

(e) ~~((Immediate access to clinical laboratory services;))~~ If the facility is not designated as a pediatric trauma care service, have a written transfer agreement and guidelines for pediatric trauma patients;

(f) Equipment ((appropriate for adult and pediatric patients, including:

~~(i) Airway control and ventilation devices;~~

~~(ii) Oxygen source with concentration controls;~~

~~(iii) Cardiac emergency cart;~~

~~(iv) Temporary transvenous pacemaker;~~

~~(v) Electrocardiograph cardiac monitor defibrillator;~~

~~(vi) Cardiac output monitoring;~~

~~(vii) Electronic pressure monitoring;~~

~~(viii) Mechanical ventilator respirators;~~

~~(ix) Patient weighing devices;~~

~~(x) Pulmonary function measuring devices;~~

~~(xi) Temperature control devices;~~

~~(xii) Drugs, intravenous fluids, and supplies; and~~

~~(xiii) Intracranial pressure monitoring devices))~~ as described in WAC 246-976-620.

(6) Respiratory therapy available within five minutes of notification.

~~((7) A ((level I trauma care hospital shall have a)) clinical laboratory technologist available within five minutes ((including)) of notification;~~

(8) Clinical laboratory services, including:

(a) Standard analysis of blood, urine, and other body fluids;

(b) Coagulation studies;

(c) Blood gases and ((Ph)) pH determination;

(d) Serum and urine osmolality;

(e) Microbiology;

(f) Serum alcohol and toxicology determination;

(g) Drug screening; and

(h) Microtechnique.

~~((7) A level I trauma care hospital shall have transfusion))~~ (9) Blood and blood component services, including:

(a) Blood and blood components available from in-house or through community services, to meet patient needs ((in a timely fashion));

(b) Noncrossmatched blood available on patient arrival in ((ED)) the emergency department;

(c) Blood typing and cross-matching;

(d) Policies and procedures for massive transfusion ((protocols in place));

~~((d) Ability to perform massive transfusions and))~~ (e) Autotransfusion; and

~~((e))~~ (f) Blood storage capability.

~~((8) A level I trauma care hospital shall have))~~ (10) Radiological services, including:

(a) ~~((The following services in-house and))~~ A technician available within five minutes of notification, able to perform the following:

(i) Computerized tomography; and

(ii) ~~((X-ray capability;))~~ Routine radiological capabilities;

(b) ~~((The following services))~~ A technician on-call and available within twenty minutes of notification, able to perform the following:

(i) Angiography of all types;

(ii) Sonography; and

(iii) Nuclear scanning.

~~((9) A level I trauma care hospital shall have acute hemodialysis))~~ (11) Acute dialysis capability, or ((a)) written transfer agreements.

~~((10) A level I trauma care hospital shall have;))~~ (12)(a) A physician-directed burn unit ((which is)) staffed by nursing personnel trained in burn care; and is equipped to care for extensively burned patients; or

(b) Written transfer guidelines in accordance with the guidelines of the American Burn Association, and transfer agreements ((with a burn center or hospital with burn unit)) for burn care.

~~((11) A level I trauma care hospital shall be able))~~ (13) The ability to manage acute head and/or spinal cord ((injury; or have written transfer agreements with a facility with such capabilities)) injuries. Early transfer to an appropriate designated trauma rehabilitation ((facility)) service shall be considered.

~~((12) A level I trauma care hospital shall have))~~ (14) A trauma rehabilitation coordinator to facilitate the trauma patient's access to rehabilitation services.

~~((13) A level I trauma care hospital shall have:)~~  
 (15)(a) A ~~((physician directed))~~ designated trauma rehabilitation (medicine) service (which is staffed by personnel trained in rehabilitation care, and is equipped to care for the trauma patient); or

(b) Written agreements to transfer patients to a designated trauma rehabilitation service when medically feasible.

~~((14))~~ (16) A ~~((level I trauma care hospital shall have a heliport or))~~ heli-stop, landing zone, or airport located close enough to permit the facility to receive or transfer patients by ~~((air))~~ fixed-wing or rotary-wing aircraft.

**AMENDATORY SECTION** (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

**WAC 246-976-520 Designation standards for facilities providing level I trauma care ((hospitals) service—Outreach, ((training, and public education) public education, trauma care education, and research.** A facility with a designated level I trauma care ((hospital) service shall have:

(1) An outreach program with telephone and on-site consultations with physicians of the community and outlying areas regarding trauma care;

(2) A public education program addressing injury prevention;

(3) Training, including:

(a) A formal program of continuing trauma care education for:

- (i) Staff physicians;
- (ii) Nurses;
- (iii) Allied health care professionals;
- (iv) Community physicians; and
- (v) Prehospital personnel;

(b) ~~((A))~~ Residency programs accredited by the accreditation council of graduate medical education, with a commitment to training physicians in trauma management;

(c) In-house initial and maintenance training of invasive manipulative skills for prehospital personnel;

~~((3))~~ A public education program addressing:

~~((a))~~ Injury prevention:

- ~~((i))~~ In the home;
- ~~((ii))~~ In industry and the work place;
- ~~((iii))~~ On the highways;
- ~~((iv))~~ On athletic fields; and
- ~~((v))~~ For recreational or sports related activities;

~~((b))~~ First aid or CPR;

~~((c))~~ Problems confronting the public, the medical profession, and hospitals regarding optimal care for the injured;)

(4) A trauma research program.

**AMENDATORY SECTION** (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-550 Designation standards for facilities providing level II trauma care ((hospitals) service—Administration and organization. ((1) For the purpose of administering trauma care, a designated level II hospital shall have a trauma service, including:))** A facility with a designated level II trauma care service shall have:

(1)(a) Organization and direction by a general surgeon ~~((who is expert in, and committed to;))~~ with special compe-

tence in care of the injured. The service may have as codirector another physician with special competence in care of the injured;

(b) Ongoing coordination of the trauma care service by a registered nurse with special competence in care of the injured;

(c) A multidisciplinary trauma committee chaired by the trauma service director, with input to hospital management, including:

(i) An emergency physician;

(ii) An ~~((ED))~~ emergency department registered nurse;

(iii) A ~~((trauma))~~ general surgeon with special competence in trauma care;

(iv) A neurosurgeon;

(v) An orthopaedic surgeon;

(vi) A pediatrician;

(vii) An anesthesiologist;

(viii) The physician director of ((intensive care unit)) the critical care service; ((and))

(ix) ~~((An intensive))~~ The trauma care service nurse coordinator;

~~((x))~~ A critical care registered nurse; and

~~((xi))~~ The trauma rehabilitation coordinator;

(d) The multidisciplinary trauma committee shall adopt an approved method to determine activation of the trauma team, as described in WAC 246-976-870;

~~((d))~~ (e) A trauma ((resuscitation)) team to provide initial evaluation, resuscitation and treatment.

(i) The team shall be organized and directed by a general surgeon ~~((who is expert in and committed to))~~ with special competence in care of the injured, and who assumes responsibility for coordination of overall care of the trauma patient;

(ii) All members of the team, except the surgeon and anesthesiologist, shall be ((in-house and)) available within five minutes of notification of team activation;

(iii) ~~((The surgeon shall be available upon the patient's arrival in the ED, assuming twenty minute notification; and shall assume responsibility for patient care upon the surgeon's arrival in the resuscitation area;~~

~~((iv))~~ The team shall include ~~((an emergency physician)):~~

(A) An emergency physician who is:

(I) Responsible for activating the ((trauma resuscitation)) team, using an approved ((scoring system)) method as defined in WAC 246-976-870; and

~~((B))~~ (II) Responsible for providing team leadership and care for the trauma patient until the arrival of the general surgeon in the resuscitation area;

~~((v))~~ Other members of the team shall be as specified in the hospital's application for designation;

~~((e))~~ (B) A general surgeon on-call and available within twenty minutes of notification of team activation, who shall assume responsibility for patient care upon arrival in the resuscitation area;

(iv) The trauma care service shall identify all other members of the team;

(f) Specific delineation of trauma surgery privileges by the medical staff.

(2) ~~((A level II trauma care hospital shall have an ED))~~ An emergency department with ((established)) written

standards ~~((and procedures))~~ of care to ensure immediate and appropriate care for adult and pediatric trauma patients.

(3) A ~~((level II trauma care hospital shall have a))~~ surgery department, including:

(a) General surgery ~~((, including a trauma surgeon));~~

(b) ~~((Neurosurgery:))~~ A neurosurgical service. Coverage shall be available within five minutes of notification of team activation. In-house coverage shall be provided by:

(i) ~~((In-house and available within five minutes. In-house coverage shall be provided by a neurosurgeon, surgeon, or other physician who has been judged competent by the neurologic consultants on staff to initiate measures to stabilize the patient, and to initiate diagnostic procedures; and))~~ A neurosurgeon; or

(ii) A surgeon or other physician who has been judged competent by the neurosurgical consultants on staff to initiate measures to stabilize the patient, and to initiate diagnostic procedures; with a surgeon with neurosurgical privileges on-call and available within thirty minutes of notification of team activation;

(c) The following surgical services on-call and available within thirty minutes of request by the trauma team leader:

(i) Gynecologic surgery;

(ii) Hand surgery;

(iii) Obstetric surgery;

~~((iii))~~ (iv) Ophthalmic surgery;

(v) Oral/maxillofacial or otorhinolaryngologic surgery;

(vi) Orthopaedic surgery;

~~((iv))~~ (vii) Plastic surgery;

~~((v))~~ Otorhinolaryngologic/maxillofacial surgery capable of managing upper airway trauma; and

~~((vi))~~ (viii) Thoracic surgery;

(ix) Urologic surgery; and

(x) Vascular surgery.

(4) ~~((A level II trauma care hospital shall have.))~~

Nonsurgical specialties, including:

(a) Anesthesiology, with an anesthesiologist who is:

(i) ~~((Is))~~ ACLS trained, except this requirement shall not apply to a physician board-certified in anesthesiology; ~~((and))~~

(ii) ~~((Is))~~ PALS or approved equivalent trained; and

(iii) On-call and available ~~((on patient's arrival in ED, assuming a twenty minute notification))~~ within twenty minutes of notification of team activation;

(b) A radiologist on-call and available for patient service within twenty minutes of notification of team activation; and

(c) The following services on-call and available ~~((within thirty minutes))~~ for patient consultation or management:

(i) Cardiology;

(ii) Gastroenterology;

(iii) Hematology;

~~((iii))~~ (iv) Infectious disease specialists;

(v) Internal medicine;

~~((iv))~~ (vi) Nephrology;

(vii) Neurology;

(viii) Pathology; ~~((and~~

~~((v))~~ (ix) Pediatrics; and

(x) Pulmonology.

(5) Written policy and procedures for access to ancillary services, including:

(a) Chemical dependency services;

(b) Child and adult protection services;

(c) Clergy or pastoral care;

(d) Nutritionist services;

(e) Occupational therapy services;

(f) Pharmacy;

(g) Physical therapy services;

(h) Rehabilitation services;

(i) Social services; and

(j) Speech therapy services.

(6) A ~~((level II trauma care hospital shall have a))~~ pediatric trauma policy that:

(a) Provides for initial stabilization and resuscitation ~~((for))~~ of pediatric trauma patients, including ~~((ED))~~ emergency department and surgical interventions; and

(b) ~~((If it is not a level II pediatric trauma hospital, includes written provision to transfer the patient to the appropriate level designated pediatric trauma facility after initial resuscitation and stabilization.))~~ If the facility is not designated as a pediatric trauma care service, identifies and establishes its scope of pediatric trauma care, including but not limited to:

(i) Criteria for admission of pediatric patients;

(ii) Written transfer guidelines and agreements for pediatric trauma patients requiring critical care services.

~~((6))~~ (7) A ~~((level II trauma care hospital shall have an approved))~~ written policy and procedures to divert patients to other designated ~~((facilities,))~~ trauma care services. The policy shall be based on ~~((it's))~~ criteria which reflect the service's ability to ~~((manage))~~ resuscitate and stabilize each patient at a particular time.

~~((7))~~ (8) A trauma registry as required in WAC 246-976-430.

(9) A ~~((level II trauma care hospital shall have a))~~ quality assurance program in accordance with WAC 246-976-880; and cooperate with regional trauma care quality assurance programs throughout the state established pursuant to WAC 246-976-910.

(10) Interfacility transfer guidelines and agreements consistent with WAC 246-976-890.

**AMENDATORY SECTION** (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

**WAC 246-976-560 Designation standards for facilities providing level II trauma care ~~((hospitals))~~ service—Basic resources and capabilities.** A facility with a designated level II trauma care service shall have:

(1) ~~((A level II trauma care hospital shall have an ED))~~ An emergency department, with:

(a) A physician director who is ~~((board certified or eligible in emergency medicine));~~

(i) Board-certified in emergency medicine or other relevant specialty;

(ii) ATLS and ACLS trained, except this requirement shall not apply to a physician board-certified in emergency medicine; and

(iii) PALS or approved equivalent trained, except that this requirement shall not apply to a physician board-certified in pediatric emergency medicine.

(b) ~~((Emergency))~~ Physicians who ~~((are));~~

(i) Are board-certified ~~((or eligible))~~ in emergency medicine, or board-certified in a specialty and practicing

emergency medicine as their primary practice with special ~~((competency))~~ competence in care of trauma patients;

(ii) ~~((In-house and))~~ Are available within five minutes ((to patient on arrival to ED)) of patient's arrival in the emergency department;

(iii) Are ATLS and ACLS trained, except ((that)) this requirement shall not apply to ((board-certified emergency physicians)) a physician board-certified in emergency medicine;

(iv) ~~((ACLS trained;~~

~~(v))~~ Are PALS or approved equivalent trained, except this requirement shall not apply to a physician board-certified in pediatric emergency medicine; and

~~((vi) Designated))~~ (v) Are designated as members of the trauma team;

(c) ~~((ED))~~ Registered nurses who:

(i) Are ACLS trained;

(ii) Are PALS or approved equivalent trained;

(iii) Have ((taken)) successfully completed a trauma life support course as defined in WAC 246-976-885; and

(iv) Are in the ((ED)) emergency department and available ((to the patient)) within five minutes of patient's arrival in the emergency department; ((with at least two RN's on duty per shift;))

(d) An area designated for adult and pediatric resuscitation, with equipment for resuscitation and life support of pediatric and adult ((and pediatric)) trauma patients, including((:)) equipment as described in WAC 246-976-620;

~~((i) Airway control and ventilation equipment including:~~

~~(A) Airways;~~

~~(B) Laryngoscopes, including curved and straight;~~

~~(C) Endotracheal tubes of all sizes;~~

~~(D) Bag mask resuscitator, with full range of sizes, neonatal to adult;~~

~~(E) Sources of oxygen; and~~

~~(F) Mechanical ventilation;~~

~~(ii) Suction devices, including:~~

~~(A) Back up suction source;~~

~~(B) Pediatric and adult suction catheters; and~~

~~(C) Tonsil suction tip;~~

~~(iii) Electrocardiograph;~~

~~(iv) Cardiac monitor;~~

~~(v) Defibrillator, including pediatric paddles;~~

~~(vi) All standard apparatus to establish central venous pressure monitoring;~~

~~(vii) All standard intravenous fluids and administering devices for adult and pediatric patients, including intravenous catheters and intraosseous needles;~~

~~(viii) Sterile surgical sets for procedures standard for ED such as thoracostomy and cut down, including adult and pediatric sets;~~

~~(ix) Gastric lavage equipment;~~

~~(x) Drugs and supplies necessary for adult and pediatric emergency care;~~

~~(xi) Capability for rapid infusion of fluids;~~

~~(xii) Capability for rapid fluid recovery and transfusion;~~

~~(xiii) X-ray capability with twenty-four hour coverage by in-house technician;~~

~~(xiv) Thermal control equipment for:~~

~~(A) Patient; and~~

~~(B) Blood;~~

~~(xv) Two-way radio linked with EMS/TC vehicles;~~

~~(xvi) Pneumatic anti-shock garments, all sizes; except, pediatric sizes are optional, depending on local protocol;~~

~~(xvii) Cervical injury immobilization device;~~

~~(xviii) Long-bone stabilization device;~~

~~(xix) Backboard;~~

~~(xx) Equipment specific to pediatric care, including:~~

~~(A) Traction splint;~~

~~(B) Blood pressure cuffs in infant, child, and toddler sizes;~~

~~(C) Foley catheters;~~

~~(D) Rigid cervical collars;~~

~~(E) Doppler;~~

~~(F) Infant scale for accurate weight measurement under twenty-five pounds;~~

~~(G) Temperature controlled heating units with/without open crib;~~

~~(H) Heating/cooling blankets;~~

~~(I) Heat lamp;~~

~~(J) Hypothermia thermometers;~~

~~(K) Expanded scale electronic thermometers;~~

~~(L) Device for assuring maintenance of infant warmth during transport;~~

~~(M) Nasogastric/feeding tubes;~~

~~(N) Noninvasive BP monitor; and~~

~~(O) Pulse oximetry.))~~

(e) Routine radiological capabilities by a technician available within five minutes of notification of team activation.

(2) A ~~((level II trauma care hospital shall have a general))~~ surgery department, including:

(a) An attending general surgeon ((who is)) on-call and available ((upon the patient's arrival in the ED, assuming twenty minute notification)) within twenty minutes of notification of team activation. The attending surgeon shall:

(i) Provide trauma team leadership upon arrival in the resuscitation area;

(ii) Be board-certified; ((or have graduated from a residency program accredited by the accreditation council of graduate medical education, but who is less than five years out of training;

~~(iii))~~ (iii) Have ((general)) trauma surgery privileges as delineated by the medical staff; or

(b) A post-graduate year four or above surgical resident may initiate evaluation and treatment upon the patient's arrival in the ~~((ED))~~ emergency department until the arrival of the attending surgeon. The attending surgeon shall be available within twenty minutes upon notification of team activation. The resident shall have ATLS and PALS or approved equivalent training;

(c) All ~~((trauma))~~ general surgeons who are responsible for care and treatment of trauma patients shall be trained in ((ATLS except that this requirement shall not apply to board certified surgeons; and));

(i) ATLS and ACLS, except this requirement shall not apply to a physician board-certified in surgery; and

~~((d) All trauma surgeons trained in ACLS and))~~ (ii) PALS or approved equivalent.

(3) ~~((A level II trauma care hospital shall have))~~ An operating ((suite)) room available within five minutes of notification of team activation, with:

(a) ~~((An operating room adequately staffed with one operating room nurse or other member of the operating room~~

~~staff who is in-house and available within five minutes and is qualified to open a room, dispense necessary drugs, and is otherwise qualified to prepare the operating suite for immediate patient care. The remainder of the staff shall be in-house or on-call and available within twenty minutes;))~~ A registered nurse or designee of the operating room staff who is available within five minutes of notification of team activation to open the operating room, and to coordinate responsibilities to ensure the operating room is ready for surgery upon arrival of the patient, the surgeon, and the anesthesiologist;

~~(b) ((Essential personnel, including at least one OR nurse, available twenty-four hours a day;))~~ Other essential personnel on-call and available within twenty minutes of notification of team activation;

~~(c) A ((documented method))~~ written policy providing for ((prompt)) mobilization of ((consecutive)) additional surgical teams for trauma patients; and

~~(d) ((Equipment or capabilities))~~ Instruments and equipment appropriate for pediatric and adult surgery, including((+)) equipment as described in WAC 246-976-620.

~~((i) Operating microscope;~~

~~(ii) Thermal control equipment for patients;~~

~~(iii) Thermal control equipment for blood;~~

~~(iv) Rapid infusion capability;~~

~~(v) Rapid fluid recovery capability;~~

~~(vi) X-ray capability;~~

~~(vii) Bronchoscope in operating room;~~

~~(viii) Endoscopes available from elsewhere in the facility;~~

~~(ix) Craniotome;~~

~~(x) Monitoring equipment; and~~

~~(xi) Instruments and equipment appropriate to pediatric trauma care.))~~

~~(4) A ((level II trauma care hospital shall have a))~~ post anesthetic recovery unit with:

~~(a) Essential personnel, including at least one registered nurse ((with critical post anesthetic nurse training)), on-call and available twenty-four hours a day;~~

~~(b) ((All))~~ Nurses ACLS trained;

~~(c) Nurses PALS or approved equivalent trained; and~~

~~(d) Appropriate monitoring and resuscitation equipment.~~

~~(5) A ((level II trauma care hospital shall have an intensive care unit))~~ critical care service, with:

~~(a) A medical director who is:~~

~~(i) Board-certified((, board eligible, or who has expertise in critical care, pulmonary medicine, cardiology;))~~ in surgery, internal medicine, or anesthesiology, with special competence in critical care; and

~~(ii) ((ACLS trained;))~~ Responsible for coordinating with the attending staff for the care of trauma patients, including:

~~(A) Development and implementation of policies;~~

~~(B) Coordination of medical care;~~

~~(C) Determination of patient isolation;~~

~~(D) Authority for patient placement decisions;~~

~~(E) Equipment;~~

~~(F) Coordination of staff education;~~

~~(G) Coordination of statistics;~~

~~(H) Identification of criteria for reviewing quality of care on all critical care unit trauma patients, in conjunction with the trauma service medical director;~~

~~(b) A physician ((on-duty in the ICU twenty-four hours a day, or who is in-house and))~~ available in the critical care unit within five minutes of notification;

~~(c) A physician directed code team;~~

~~(d) ((ICU))~~ Critical care unit registered nurses ((that)) with special competence in trauma care, who:

~~(i) Are ACLS trained;~~

~~(ii) Have ((taken))~~ successfully completed a trauma life support course as defined in WAC 246-976-885;

~~(e) ((Immediate access to clinical laboratory services;))~~ If the facility is not designated as a pediatric trauma care service, have a written transfer agreement and guidelines for pediatric trauma patients;

~~(f) Equipment ((appropriate for adult and pediatric patients, including:~~

~~(i) Airway control and ventilation devices;~~

~~(ii) Oxygen source with concentration controls;~~

~~(iii) Cardiac emergency cart;~~

~~(iv) Temporary transvenous pacemaker;~~

~~(v) Electrocardiograph cardiac monitor-defibrillator;~~

~~(vi) Cardiac output monitoring;~~

~~(vii) Electronic pressure monitoring;~~

~~(viii) Mechanical ventilator respirators;~~

~~(ix) Patient weighing devices;~~

~~(x) Pulmonary function measuring devices;~~

~~(xi) Temperature control devices;~~

~~(xii) Drugs, intravenous fluids, and supplies; and~~

~~(xiii) Intracranial pressure monitoring devices))~~ as described in WAC 246-976-620.

~~(6) Respiratory therapy available within five minutes of notification.~~

~~(7) A ((level II trauma care hospital shall have))~~ clinical laboratory ((services)) technologist available within five minutes of notification.

~~(8) Clinical laboratory services, including:~~

~~(a) Standard analysis of blood, urine, and other body fluids;~~

~~(b) Coagulation studies;~~

~~(c) Blood gases and pH determination;~~

~~(d) Serum and urine osmolality;~~

~~(e) Microbiology;~~

~~(f) Serum alcohol and toxicology determination;~~

~~(g) Drug screening; and~~

~~(h) Microtechnique.~~

~~((7) A level II trauma care hospital shall have transfusion))~~ (9) Blood and blood component services, including:

~~(a) Blood and blood components available from in-house or through community services, to meet patient needs ((in a timely fashion));~~

~~(b) Noncrossmatched blood available on patient arrival in ((ED)) emergency department;~~

~~(c) Blood typing and cross-matching;~~

~~(d) Policies and procedures for massive transfusion ((protocols in place));~~

~~((d) Ability to perform massive transfusions and))~~ (e) Autotransfusion; and

~~((e))~~ (f) Blood storage capability.

~~((8) A level II trauma care hospital shall have))~~ (10) Radiological services, including:

~~(a) ((X-ray capabilities in-house and))~~ A technician available within five minutes of notification, able to perform routine radiological procedures;

~~((The following services))~~ A technician on-call and available within twenty minutes of notification, able to perform the following:

- (i) Computerized tomography;
- (ii) Angiography of all types; and
- (iii) Sonography.

~~((9))~~ A level II trauma care hospital shall have acute hemodialysis) (11) Acute dialysis capability, or ((a)) written transfer agreements.

~~((10))~~ A level II trauma care hospital shall have:)

(12)(a) A physician-directed burn unit ((which is)) staffed by nursing personnel trained in burn care; and ((is)) equipped to care for ((the)) extensively burned patients; or

(b) Written transfer guidelines in accordance with the guidelines of the American Burn Association, and transfer agreements ((with a burn center or hospital with burn unit)) for burn care.

~~((11))~~ A level II trauma care hospital shall be able)

(13)(a) The ability to manage acute head and/or spinal cord injuries(;) or;

(b) Have written transfer guidelines and agreements ((with facility with such capabilities.)) for head and spinal cord injuries;

(c) Early transfer to an appropriate designated trauma rehabilitation ((center)) service shall be considered.

~~((12))~~ (14) A ((level II trauma care hospital shall have a)) trauma rehabilitation coordinator to facilitate the trauma patient's access to rehabilitation services.

~~((13))~~ A level II trauma care hospital shall have:)

(15)(a) A ((physician directed)) designated trauma rehabilitation ((medicine)) service ((which is staffed by personnel trained in rehabilitation care, and is equipped to care for the trauma patient)); or

(b) Written agreements to transfer patients to a designated trauma rehabilitation service when medically feasible.

~~((14))~~ (16) A ((level II trauma care hospital shall have a heliport or)) heli-stop, landing zone, or airport located close enough to permit the facility to receive or transfer patients by ((air)) fixed-wing or rotary-wing aircraft.

**AMENDATORY SECTION** (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-570 Designation standards for facilities providing level II trauma care ((hospitals)) service—Outreach, public education and ((training)) trauma care education.** A facility with a designated level II trauma care ((hospitals)) service shall have:

(1) ~~((Have))~~ An outreach program with telephone and on-site consultations with physicians of the community and outlying areas regarding trauma care;

(2) ~~((Have))~~ A public education program addressing injury prevention;

(3) A formal program of continuing trauma care education for:

- (a) Staff physicians;
- (b) Nurses;
- ~~((b))~~ (c) Allied health care professionals;
- (d) Community physicians; and
- ~~((e))~~ (e) Prehospital personnel;

~~((3))~~ (4) Make the facility available for initial and maintenance training of invasive manipulative skills for prehospital personnel.

**AMENDATORY SECTION** (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

**WAC 246-976-600 Designation standards for facilities providing level III trauma care ((hospitals)) service—Administration and organization.** A facility with a designated level III trauma care service shall have:

(1) ~~((For the purpose of administering trauma care, a designated level III hospital shall have a trauma service, including:))~~ (a) Organization and direction by a general surgeon or other physician ((who is expert in, and committed to.)) with special competence in care of the injured. The service may have as codirector another physician with special competence in care of the injured;

(b) Ongoing coordination of the trauma care service by a registered nurse with special competence in care of the injured;

(c) A multidisciplinary trauma committee chaired by the trauma service director, with input to hospital management, including:

- (i) An emergency physician;
- (ii) An ((ED)) emergency department registered nurse;
- (iii) A ((trauma)) general surgeon with special competence in trauma care;

(iv) An orthopaedic surgeon;

(v) A pediatrician;

(vi) An anesthesiologist;

~~((vi))~~ A pediatrician;)

(vii) The physician director of ((intensive care unit)) the critical care service; ((and))

(viii) ~~((An intensive))~~ The trauma care service nurse coordinator;

(ix) A critical care registered nurse; and

(x) The trauma rehabilitation coordinator.

(d) The multidisciplinary trauma committee shall adopt an approved method to determine activation of the trauma team, as described in WAC 246-976-870.

(e) A trauma ((resuscitation)) team to provide initial evaluation, resuscitation and treatment(;;).

(i) The team shall be organized and directed by a general surgeon ((who is expert in, and committed to.)) with special competence in care of the injured, and who assumes responsibility for coordination of overall care of the trauma patient((- The attending surgeon shall be on-call and available within thirty minutes of being called));

(ii) All members of the team, except the surgeon and anesthesiologist or CRNA (if a member of the team), shall be ((in-house and)) available within five minutes of notification of team activation;

(iii) The team shall include ((an emergency physician));

(A) An emergency physician who is:

(I) Responsible for activating the trauma ((resuscitation)) team, using an approved ((scoring system)) method as defined in WAC 246-976-870; and

~~((B))~~ (II) Responsible for providing team leadership and care for the trauma patient until the arrival of the general surgeon in the resuscitation area;

(B) A general surgeon on-call and available within thirty minutes of notification of team activation, who shall assume responsibility for patient care upon arrival in the resuscitation area;

(iv) ~~((Other members of the team shall be as specified in the hospital's application for designation.))~~ The trauma care service shall identify all other members of the team.

~~((e))~~ (f) Specific delineation of trauma surgery privileges by the medical staff.

(2) ~~((A level III trauma care hospital shall have an ED))~~ An emergency department with ~~((established))~~ written standards ~~((and procedures))~~ of care to ensure immediate and appropriate care for adult and pediatric trauma patients.

(3) A ~~((level III trauma care hospital shall have a))~~ surgery department ~~((with)),~~ including:

~~((An attending surgeon who is on-call and available within thirty minutes, and:~~

(a) Has general surgery privileges;

(b) Has ATLS training.)) (a) General surgery;

(b)(i) Written transfer guidelines and agreements for head and spinal cord injuries; or

(ii) Neurosurgery, with a neurosurgeon on-call and available within thirty minutes of notification of team activation.

(c)(i) Have written transfer guidelines and procedures for patients requiring orthopaedic surgery; or

(ii) Orthopaedic surgery, with an orthopaedic surgeon on-call and available within thirty-minutes of request by the trauma team leader.

(4) ~~((A level III trauma care hospital shall have))~~ Nonsurgical specialties, including:

(a) Anesthesiology, with an anesthesiologist or ~~((nationally))~~ certified registered nurse anesthetist who is:

(i) ACLS trained, except this requirement shall not apply to a physician board-certified in anesthesiology;

(ii) PALS or approved equivalent trained;

(iii) On-call and available within thirty minutes of notification of team activation;

~~((ii) ACLS trained; and))~~

(b) A radiologist on-call and available for patient service within thirty minutes of notification of team activation.

(c) The following services on-call and available ~~((within thirty minutes))~~ for patient consultation or management:

(i) Internal medicine; and

(ii) ~~((A radiologist.))~~ General pediatrics, with board-certified pediatricians available for pediatric patient consultation or management.

(5) Written policy and procedures for access to ancillary services, including:

(a) Chemical dependency services;

(b) Child and adult protection services;

(c) Clergy or pastoral care;

(d) Nutritionist services;

(e) Occupational therapy services;

(f) Pharmacy services;

(g) Physical therapy services;

(h) Rehabilitation services;

(i) Social services.

(6) A ~~((level III trauma hospital shall have a))~~ pediatric trauma policy that:

(a) Provides for initial stabilization and resuscitation ~~((for))~~ of pediatric trauma patients including ~~((ED))~~ emergency department and surgical interventions; and

(b) ~~((If it is not a level III pediatric hospital, includes written provision to transfer patients to the appropriate level designated pediatric trauma facility after initial resuscitation and stabilization.))~~ If the facility is not designated as a pediatric trauma care service, identifies and establishes its scope of pediatric trauma care, including but not limited to:

(i) Criteria for admission of pediatric patients;

(ii) Written transfer guidelines and agreements for pediatric trauma patients requiring critical care services.

~~((6))~~ (7) A ~~((level III trauma hospital shall have an approved))~~ written policy and procedure to divert patients to other designated ~~((facilities.))~~ trauma care services. The policy shall be based on ~~((it's))~~ criteria which reflect the service's ability to ~~((manage))~~ resuscitate and stabilize each patient at a particular time.

~~((7))~~ (8) A trauma registry as required in WAC 246-976-430.

(9) A ~~((level III trauma care hospital shall have a))~~ quality assurance program in accordance with WAC 246-976-880; and cooperate with regional trauma care quality assurance programs throughout the state established pursuant to WAC 246-976-910.

(10) Interfacility transfer guidelines and agreements consistent with WAC 246-976-890.

AMENDATORY SECTION (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

WAC 246-976-610 Designation standards for facilities providing level III trauma care ~~((hospitals))~~ service—Basic resources and capabilities. A facility with a designated level III trauma care service shall have:

(1) ~~((A level III trauma care hospital shall have an ED))~~ An emergency department with:

(a) A physician director~~((s))~~ who is:

(i) Board-certified in emergency medicine, or other relevant specialty;

(ii) ATLS and ACLS trained, except this requirement shall not apply to a physician board-certified in emergency medicine;

(iii) PALS or approved equivalent training, except this requirement shall not apply to a physician board-certified in pediatric emergency medicine.

(b) ~~((A physician in-house and available within five minutes of patient's arrival in the ED, who is))~~ Physicians who:

(i) ~~((Experienced))~~ Have special competence in the resuscitation and care of trauma patients;

(ii) Are available within five minutes of patient's arrival in the emergency department;

(iii) Are ATLS and ACLS trained, except this requirement shall not apply to a physician board-certified in emergency medicine;

~~((iii))~~ (iv) Are PALS or approved equivalent trained, except this requirement shall not apply to a physician board-certified in pediatric emergency medicine; and

~~((iv) ACLS trained; and))~~

(v) ~~((A))~~ Are designated as members of the trauma team;



- (c) ~~((ED))~~ Registered nurses who:
- (i) Are ACLS trained;
  - (ii) Are PALS or approved equivalent trained;
  - (iii) Have ~~((taken))~~ successfully completed a trauma life support course as defined in WAC 246-976-885; and
  - (iv) Are in the ~~((ED))~~ emergency department and available ~~((to the patient))~~ within five minutes of patient's arrival in the emergency department;
- (d) An area designated for adult and pediatric resuscitation, with equipment for resuscitation and life support of pediatric and adult trauma patients, including~~((+))~~ equipment as described in WAC 246-976-620.
- ~~((i))~~ Airway control and ventilation equipment including:
- ~~(A)~~ Airways;
  - ~~(B)~~ Laryngoscopes, including curved and straight;
  - ~~(C)~~ Endotracheal tubes of all sizes;
  - ~~(D)~~ Bag mask resuscitator, with full range of sizes, neonatal to adult;
  - ~~(E)~~ Sources of oxygen; and
  - ~~(F)~~ Mechanical ventilation available to the patient within five minutes;
- (ii) Suction devices, including:
- ~~(A)~~ Back up suction source;
  - ~~(B)~~ Pediatric and adult suction catheters; and
  - ~~(C)~~ Tonsil suction tip;
- (iii) Electrocardiograph;
- (iv) Cardiac monitor;
- (v) Defibrillator, including pediatric paddles;
- (vi) All standard apparatus to establish central venous pressure monitoring;
- (vii) All standard intravenous fluids and administering devices appropriate for adult and pediatric patients, including intravenous catheters and intraosseous needles;
- (viii) Sterile surgical sets for procedures standard for ED such as thoracostomy and cut down, including both adult and pediatric sets;
- (ix) Gastric lavage equipment;
- (x) Drugs and supplies necessary for adult and pediatric emergency care;
- (xi) Capability for rapid infusion of fluids;
- (xii) X-ray capabilities, with a technician on call and available within twenty minutes;
- (xiii) Thermal control equipment for:
- ~~(A)~~ Patient; and
  - ~~(B)~~ Blood;
- (xiv) Two way radio linked with EMS/TC vehicles;
- (xv) Pneumatic anti shock garments, all sizes; except, pediatric sizes are optional, depending on local protocol;
- (xvi) Cervical injury immobilization device;
- (xvii) Long bone stabilization device;
- (xviii) Backboard;
- (xix) Equipment specific to pediatric care, including:
- ~~(A)~~ Traction splint;
  - ~~(B)~~ Blood pressure cuffs in infant, child sizes;
  - ~~(C)~~ Foley catheter;
  - ~~(D)~~ Rigid cervical collars;
  - ~~(E)~~ Doppler;
  - ~~(F)~~ Infant scale for accurate weight measurement under twenty five pounds;
  - ~~(G)~~ Temperature controlled heating units with/without open crib available within five minutes;
  - ~~(H)~~ Heating/cooling blankets;

- ~~(I)~~ Heat lamp;
- ~~(J)~~ Hypothermia thermometers;
- ~~(K)~~ Expanded scale electronic thermometers;
- ~~(L)~~ Device for assuring maintenance of infant warmth during evaluation and transport;
- ~~(M)~~ Nasogastric/feeding tubes;
- ~~(N)~~ Noninvasive BP monitor; and
- ~~(O)~~ Pulse oximetry;)
- (2) ~~((A level III trauma care hospital shall have))~~ Routine radiological capabilities by a technician available within twenty minutes of notification of team activation.
- (3) A surgery department, including an attending general surgeon who:
- ~~(a)~~ Is on-call and available within thirty minutes of notification of team activation;
  - ~~(b)~~ Has general surgery privileges;
  - ~~(c)~~ Has ATLS and ACLS training, except this requirement shall not apply to a physician board-certified in surgery; and
  - ~~(d)~~ Has PALS or approved equivalent training.
- (4) An operating ~~((suite adequately staffed with one operating room nurse or operating room qualified designee who is in house and available to the operating suite within five minutes and the remainder of the staff on call and available within thirty minutes.))~~ room available within five minutes of notification of team activation, with:
- ~~(a)~~ ((Essential personnel, including at least one OR nurse, readily available twenty four hours a day;)) A registered nurse or designee of the operating room staff who is available within five minutes of notification of team activation to open the operating room, and to coordinate responsibilities to ensure the operating room is ready for surgery upon arrival of the patient, the surgeon, and the anesthesiologist;
- ~~(b)~~ Other essential personnel on-call and available within thirty minutes of notification of team activation;
- ~~((b))~~ A documented method for prompt mobilization of consecutive surgical teams for trauma patients) ~~(c)~~ A written policy providing for mobilization of additional surgical teams for trauma patients; and
- ~~((c))~~ Equipment or capabilities including:) ~~(d)~~ Instruments and equipment appropriate for pediatric and adult surgery, including equipment as described in WAC 246-976-620.
- ~~((i))~~ Thermal control equipment for patients;
- ~~(ii)~~ Thermal control equipment for blood;
- ~~(iii)~~ X-ray capability;
- ~~(iv)~~ Bronchoscope in operating room;
- ~~(v)~~ Endoscopes available from elsewhere in the facility;
- ~~(vi)~~ Monitoring equipment; and
- ~~(vii)~~ Instruments and equipment appropriate to pediatric trauma care.
- ~~(3))~~ (5) A ~~((level III trauma care hospital shall have a))~~ post anesthetic recovery unit with:
- ~~(a)~~ Essential personnel~~((, including registered nurses with ACLS training,))~~ on-call and available twenty-four hours a day;
  - ~~(b)~~ Nurses ACLS trained;
  - ~~(c)~~ Nurses PALS or approved equivalent trained; and
  - ~~(d)~~ Appropriate monitoring and resuscitation equipment.
- ~~((4))~~ (6) A ~~((level III trauma care hospital shall have an intensive care unit))~~ critical care service, with:

- (a) A medical director who is ~~((ACLS trained;))~~;
- (i) Board-certified in surgery, internal medicine, or anesthesiology, with special competence in critical care;
- (ii) Responsible for coordinating with the attending staff for the care of trauma patients, including:
- (A) Development and implementation of policies;
- (B) Coordination of medical care;
- (C) Determination of patient isolation;
- (D) Authority for patient placement decisions;
- (E) Equipment;
- (F) Coordination of staff education;
- (G) Coordination of statistics;
- (H) Identification of criteria for reviewing quality of care on all critical care unit trauma patients, in conjunction with the trauma service medical director;
- (b) A physician-directed code team;
- (c) ~~((ICU))~~ Critical care unit registered nurses with special competence in trauma care, who:
- (i) Are ACLS trained; and
- (ii) Have successfully completed a trauma life support course as defined in WAC 246-976-885;
- (d) ~~((Immediate access to clinical laboratory services;))~~ If the facility is not designated as a pediatric trauma care service, have a written transfer agreement and guidelines for pediatric trauma patients requiring critical care services;
- (e) Equipment ~~((appropriate for adult and pediatric patients, including:))~~ as described in WAC 246-976-620.
- ~~((i) Airway control and ventilation devices;~~
- ~~((ii) Oxygen source with concentration controls;~~
- ~~((iii) Cardiac emergency cart;~~
- ~~((iv) Artificial pacing capabilities;~~
- ~~((v) Electrocardiograph defibrillator;~~
- ~~((vi) Electronic pressure monitoring;~~
- ~~((vii) Mechanical ventilator respirators available within five minutes;~~
- ~~((viii) Patient weighing devices;~~
- ~~((ix) Pulmonary function measuring devices;~~
- ~~((x) Temperature control devices; and~~
- ~~((xi) Drugs, intravenous fluids, and supplies;))~~
- (7) Respiratory therapy on-call and available within thirty minutes of notification.
- ~~((5))~~ (8) A ~~((level III trauma care hospital shall have))~~ clinical laboratory ~~((services))~~ technologist available within twenty minutes of notification.
- (9) Clinical laboratory services, including:
- (a) Standard analysis of blood, urine, and other body fluids;
- (b) Coagulation studies;
- (c) Blood gases and pH determination;
- (d) Microbiology;
- (e) Serum alcohol and toxicology determination; and
- (f) Microtechnique.
- ~~((6) A level III trauma care hospital shall have transfusion))~~ (10) Blood and blood component services, including:
- (a) Blood and blood components available from in-house or through community services, to meet patient needs ~~((in a timely fashion));~~
- (b) Noncrossmatched blood available on patient arrival in ~~((ED))~~ emergency department;
- (c) Blood typing and cross-matching;
- (d) Policies and procedures for massive transfusion ~~((protocols in place));~~

- ~~((d) Ability to perform massive transfusions and))~~ (e) Autotransfusion; and
- ~~((e))~~ (f) Blood storage capability.
- (11) Radiological services with a technician on-call and available within twenty minutes of notification, able to perform:
- (a) Routine radiological procedures; and
- (b) Computerized tomography.
- ~~((7) A level III trauma care hospital shall have acute hemodialysis))~~ (12) Acute dialysis capability, or written transfer agreements.
- ~~((8) A level III trauma care hospital shall have:))~~ (13) Ability to resuscitate and stabilize burn patients, and have written transfer guidelines in accordance with the guidelines of the American Burn Association, and transfer agreements for burn care.
- ~~((a) A physician directed burn unit staffed by nursing personnel trained in burn care, and equipped to care for extensively burned patients; or~~
- ~~((b) Written transfer agreements with burn centers or hospitals with burn units.~~
- (9) A level III trauma care hospital shall be able to manage acute head and/or spinal cord injuries, or have written transfer agreements with facilities with such capabilities. Early transfer to an appropriate designated rehabilitation facility shall be considered.
- ~~((10))~~ (14) Ability to resuscitate and stabilize head and spinal cord injuries, and have:
- (a) Written transfer guidelines and agreements for patients with head or spinal cord injuries; or
- (b) Neurosurgery, with a neurosurgeon on-call and available within thirty minutes of request by the trauma team leader;
- (c) Early transfer to an appropriate designated trauma rehabilitation service shall be considered.
- (15) A ~~((level III trauma care facility shall have a))~~ trauma rehabilitation coordinator to facilitate the trauma patient's access to rehabilitation services.
- ~~((11) A level III trauma care hospital shall have:))~~ (16)(a) A ~~((physician directed))~~ designated trauma rehabilitation ~~((medicine))~~ service ~~((staffed by personnel trained in rehabilitation care; and equipped to care for the trauma patient));~~ or
- (b) Written agreements to transfer patients to a designated trauma rehabilitation service when medically feasible.
- ~~((12))~~ (17)(a) A ~~((level III trauma care hospital shall have a heliport or))~~ heli-stop, landing zone, or airport located ~~((near))~~ close enough to permit the facility to receive or transport patients by ~~((air))~~ fixed-wing or rotary-wing aircraft; or
- (b) A written policy and procedures addressing the receipt of patients by air, and transfer of patients to other designated trauma services by ground or air.

#### NEW SECTION

**WAC 246-976-615 Designation standards for facilities providing level III trauma care service—Trauma care education.** A facility with a designated level III trauma care service shall:

- (1) Have a public education program addressing injury prevention;

(2) Make the facility available for initial and maintenance training of invasive manipulative skills for prehospital personnel.

### NEW SECTION

**WAC 246-976-620 Equipment requirements for levels I - III and levels I - III pediatric trauma care services.** A facility providing level I - III or level I - III pediatric trauma care services shall have the following equipment:

- (1) In the emergency department:
  - (a) Airway control and ventilation equipment, including:
    - (i) Airways, neonate to adult;
    - (ii) Laryngoscopes, including curved and straight blades, size 0-4;
    - (iii) Endotracheal tubes size 2.5 to 8.0 with stylets available;
    - (iv) Bag-valve-mask resuscitator, neonate, child and adult;
    - (v) Pulse oximeter with infant, child, and adult probes;
    - (vi) CO<sub>2</sub> measurement;
    - (vii) Sources of oxygen;
    - (viii) Ability to provide mechanical ventilation;
  - (b) Suction devices, including:
    - (i) Back up suction source;
    - (ii) Pediatric and adult suction catheters, size 5.0 to 14 fr; and
    - (iii) Tonsil tip suction;
  - (c) Cardiac monitoring devices, including:
    - (i) Cardiac monitor;
    - (ii) Defibrillator, including pediatric paddles;
    - (iii) Electrocardiograph;
    - (iv) Portable transport monitor with ECG;
    - (v) Blood pressure cuffs, neonate, infant, child, adult;
    - (vi) Noninvasive blood pressure monitor; and
    - (vii) Doppler device;
  - (d) Intravenous supplies, including:
    - (i) Standard apparatus to establish central venous pressure monitoring;
    - (ii) Standard intravenous fluids and administration devices, including:
      - (A) Intravenous catheters: Size 24g to 14g;
      - (B) Intraosseous needles;
      - (C) Umbilical catheters: Size 5.0 - 8.0;
      - (D) Infusion controllers or pumps;
    - (iii) Pediatric and adult dosages/dilutions of medications;
    - (e) Sterile surgical sets appropriate for pediatric and adult patients, for standard emergency department procedures, including:
      - (i) Thoracotomy set;
      - (ii) Chest tubes, sizes 10-36 with sealing devices;
      - (iii) Emergency surgical airway set;
      - (iv) Peritoneal lavage set;
      - (v) Cutdown set;
      - (f) Gastric supplies, including:
        - (i) Gastric lavage equipment;
        - (ii) Nasogastric tubes, size 10 fr to 18 fr;
      - (g) Ability to provide thermal control equipment, including:
        - (i) Patient warming/cooling device;
        - (ii) Blood and fluid warming device;

- (iii) Expanded scale thermometer capable of detecting hypothermia;
- (iv) Device for assuring maintenance of infant warmth during evaluation and transport;
- (h) Immobilization equipment, including:
  - (i) Traction splint;
  - (ii) Rigid cervical collars;
  - (iii) Cervical injury immobilization device;
  - (iv) Long-bone stabilization device; and
  - (v) Backboard;
- (i) Other equipment, including:
  - (i) Urinary bladder catheters;
  - (ii) Infant scale for accurate weight measurement under twenty-five pounds;
  - (iii) Medication chart, tape or other system to assure ready access to information on proper dose-per-kilogram for resuscitation drugs and equipment sizes for pediatric patients; and
  - (iv) Two-way radio linked with EMS vehicles from trauma facility;
- (2) In the surgery department, instruments and equipment or capabilities appropriate for pediatric and adult surgery (in levels I - III) or pediatric surgery (in pediatric levels I - III), including:
  - (a) Cardiopulmonary bypass (level I and pediatric level I only);
  - (b) Ability to provide thermal control equipment for:
    - (i) Patient warming/cooling;
    - (ii) Blood and fluid warming;
    - (c) Rapid infusion capability;
    - (d)(i) For level I and II and level I and II pediatric trauma care services, intraoperative autologous blood recovery and transfusion;
    - (ii) For level III and level III pediatric trauma care services, autologous blood recovery and transfusion;
  - (e) Ability to provide bronchoscopic capability in the operating room;
  - (f) Ability to provide endoscopes;
  - (g) Craniotomy set; except this is not required for level III or level III pediatric trauma care services; and
  - (h) Monitoring equipment;
- (3) In the critical care unit for levels I - III, equipment appropriate for adult patients, including:
  - (a) Airway control and ventilation devices;
  - (b) Oxygen source with concentration controls;
  - (c) Cardiac emergency cart;
  - (d) Cardiac pacing capabilities;
  - (e) Electrocardiograph-cardiac monitor-defibrillator;
  - (f) Cardiac output monitoring;
  - (g) Electronic pressure monitoring;
  - (h) Ability to provide mechanical ventilator;
  - (i) Ability to provide patient weighing devices;
  - (j) Ability to provide thermal control equipment for:
    - (i) Patient warming/cooling;
    - (ii) Blood and fluid warming;
  - (k) Intracranial pressure monitoring devices, except this is not required in level III or level III pediatric trauma care services;
  - (4) In the critical care unit for level I - III pediatrics:
    - (a) Airway control and ventilation equipment, including:

- (i) Oral and nasopharyngeal airways, all sizes neonate to adult (NOTE: Neonate and infants can use ETT for NP airway);
- (ii) Laryngoscopes with curved and straight blades, size 0-4;
- (iii) Endotracheal tubes size 2.5 to 8.0, with stylets available;
- (iv) Bag-valve-mask resuscitators: Neonate, child, adult;
- (v) Mechanical ventilator appropriate for entire pediatric spectrum;
- (vi) Noninvasive oximetry and capnometry;
- (b) Suction devices, including:
  - (i) Suction machine;
  - (ii) Suction catheters size 5.0 to 14 fr;
  - (iii) Tonsil tip suction;
- (c) Cardiac monitoring devices, including:
  - (i) Cardiac monitor with capability to continuously monitor: Heart rate, respiration, temperature, and at least two pressure monitoring modules;
  - (ii) Hard copy monitor recording capabilities;
  - (iii) Defibrillator with pediatric paddles;
  - (iv) Electrocardiograph; and
  - (v) Portable transport monitor with ECG and pressure monitoring capability;
- (d) Intravenous supplies, including:
  - (i) Standard apparatus to establish central venous pressure monitoring;
  - (ii) Standard IV fluids and administration devices appropriate for pediatric patients including:
    - (A) IV catheters: Size 24g to 16g;
    - (B) Intraosseous needles;
    - (C) Infusion sets and pumps with micro-infusion capabilities;
    - (D) Infusion controllers;
  - (iii) Pediatric dosages/dilutions of medications;
- (e) Sterile surgical sets appropriate for pediatric patients, including:
  - (i) Thoracotomy set;
  - (ii) Chest tubes; (sizes 10 to 36);
  - (iii) Emergency surgical airway sets;
  - (iv) Peritoneal lavage set;
  - (v) Cutdown set;
  - (vi) Lumbar puncture set;
  - (f) Gastric supplies, including NG tubes: Size 10 fr to 16 fr;
  - (g) Ability to provide thermal control equipment, including:
    - (i) Temperature controlled heating units with or without open crib;
    - (ii) Heating/cooling blanket;
    - (iii) Heat lamp;
    - (iv) Blood and fluid warming device;
    - (v) Expanded scale thermometer capable of detecting hypothermia;
    - (vi) Device for assuring maintenance of infant warmth during transport;
  - (h) Equipment specific to pediatric trauma care including:
    - (i) Urinary bladder catheters;
    - (ii) Otolaryngoscope/ophthalmoscope;
    - (iii) Refractometer;
    - (iv) Blood pressure cuffs: Neonate, infant, child, adult;

- (v) Doppler device;
- (vi) Noninvasive blood pressure machine;
- (vii) Ability to provide patient weighing devices including an infant scale for accurate weight measurement under twenty-five pounds;
- (viii) Provision for life support with emergency cardio-pulmonary arrest cart.

**AMENDATORY SECTION** (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-640 Designation standards for facilities providing level IV trauma care ((facilities)) services—Administration and organization.** ~~((For the purpose of administering trauma care,))~~ A facility with a designated level IV ((hospital)) trauma care service shall:

- (1) Define a system for providing emergency care twenty-four hours every day, which shall include ongoing coordination by a registered nurse; ~~((and))~~
- (2) Establish emergency care services consistent with community needs, the approved regional plan, and within the facility's capabilities ~~((and))~~. The service shall have a policy that identifies and establishes its scope of trauma care for both adult and pediatric patients, including but not limited to:

- (a) Initial resuscitation and stabilization;
- (b) Admission criteria;
- (c) Surgical capabilities;
- (d) Critical care capabilities;
- (e) Rehabilitation capabilities;

(3) ((A written plan for diversion and transfer of)) Have a method of activating trauma-response personnel consistent with the scope of trauma care and in keeping with the goals of WAC 246-976-870;

(4) Have a written policy and procedures to divert trauma patients to other designated trauma care services. The policy shall be based on criteria which reflect the ability of the service to accept, resuscitate and stabilize each patient at a particular time, and shall include notification of prehospital providers of the facility's diversion status; ~~((and~~

(4)) (5) Have interfacility transfer guidelines and agreements consistent with WAC 246-976-890;

(6) Participate in the state trauma registry as required in WAC 246-976-430, with a person identified as responsible for coordination of trauma registry activities;

(7) Have a quality assurance program in accordance with WAC ((246-976-880)) 246-976-881; and

(8) Participated in the regional trauma quality assurance program as required in WAC 246-976-910.

**AMENDATORY SECTION** (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

**WAC 246-976-650 Designation standards for facilities providing level IV trauma care ((facilities)) services—Basic resources and capabilities.** A facility with a designated level IV trauma care service shall have:

(1) ((A level IV trauma care hospital shall have an ED)) An emergency department with:

(a) A physician ((who is experienced)) with special competence in resuscitation ((and)), care and treatment of trauma patients, who is:

(i) On-call and available within twenty minutes of notification;

~~((ATLS trained; and))~~ Responsible for activating trauma-response personnel;

(iii) ATLS and ACLS trained, except this requirement shall not apply to a physician board-certified in emergency medicine; and

(iv) PALS or approved equivalent trained, except this requirement shall not apply to a physician board-certified in emergency medicine or pediatric emergency medicine;

(b) ~~((An ED))~~ A registered nurse in-house and available within five minutes of notification, who:

(i) Is ACLS trained; ~~((and))~~

(ii) Has ~~((taken))~~ successfully completed a trauma life support course as defined in WAC 246-976-885; and

(iii) Is PALS or approved equivalent trained;

(c) Basic emergency services including:

~~((in person by a registered nurse, physician, physician's assistant, physician extender, or advanced registered nurse practitioner));~~

(ii) Determination of the nature and urgency of the patient's medical need, including the timing and place of care; and

(iii) ~~((Immediate))~~ Diagnosis and treatment of any life threatening condition, including procedures to minimize aggravation of the patient's condition during transport to another ~~((health care facility))~~ designated trauma care service;

(d) Equipment available for resuscitation and life support of adult and pediatric trauma patients, including:

(i) Airway control and ventilation equipment including:

(A) Airways, neonatal to adult;

(B) Laryngoscope, including curved and straight blades, sizes 0-4;

~~((B))~~ (C) Endotracheal tubes ~~((of all sizes))~~ sizes 2.5 to 8.0, with stylets;

~~((C))~~ (D) Bag-valve-mask resuscitator ~~((with full range of mask sizes, neonatal to))~~ sizes neonatal, child and adult;

~~((D))~~ (E) Sources of oxygen; ~~((and~~

~~((E))~~ (F) Pulse oximeter with infant, child and adult probes; and

(G) Suction devices;

(ii) Cardiac monitoring devices, including:

(A) Electrocardiograph;

~~((iii))~~ (B) Cardiac monitor;

~~((iv))~~ (C) Defibrillator with pediatric paddles;

~~((v))~~ (iii) Standard intravenous fluids and administering devices, including ~~((intravenous catheters and intraosseous needles));~~

(A) Intravenous catheters, size 24g to 14g;

(B) Intraosseous needles;

(C) Infusion control device;

~~((vi))~~ Sterile surgical sets for procedures standard for ED;

~~((vii))~~ (iv) Gastric lavage equipment;

~~((viii))~~ (v) Drugs and supplies necessary for adult and pediatric emergency care;

~~((ix))~~ X ray capability, with technician on call and available within twenty minutes;

~~((x))~~ (vi) Medication chart, tape, or other system to assure ready access to information on proper dose-per-

kilogram for resuscitation drugs and equipment sizes for pediatric patients;

(vii) Immobilization devices, including:

(A) Cervical injury immobilization devices, adult and pediatric sizes;

(B) Long-bone stabilization device; and

(C) Backboard;

~~((patient));~~ (viii) Ability to provide thermal control equipment for

(A) Patient warming and cooling;

(B) Blood warming and cooling;

(ix) Other equipment:

(A) Sterile surgical sets for procedures standard for emergency department;

~~((xi))~~ (B) Two-way radio linked with EMS/TC vehicles;

~~((xii))~~ Pneumatic anti shock garments; if use of this device is allowed in hospital protocols;

~~((xiii))~~ Cervical injury immobilization device;

~~((xiv))~~ Long-bone stabilization device; and

~~((xv))~~ Backboard;

(e) Routine radiological capabilities by a technician available within twenty minutes of notification of activation of trauma response personnel.

~~((A level IV trauma care hospital shall have surgery capabilities, including))~~ If the service's scope of trauma care defined under WAC 246-976-640(2) includes surgery and/or critical care capabilities, it shall have:

(a) ~~((Adequate))~~ Staff, including:

(i) A physician on-call and available within thirty minutes of notification of activation of trauma response personnel, who:

(A) Has specific delineation of surgical privileges by the medical staff for resuscitation, stabilization and treatment of major trauma patients;

(B) ~~((Is ACLS trained; and))~~ Is PALS or approved equivalent trained;

(C) Is ATLS and ACLS trained, except this requirement shall not apply to a physician board-certified in surgery; and

~~((ii))~~ (D) Is responsible for coordinating care and transfer of trauma patients;

(ii) Anesthesiology, with an anesthesiologist or certified registered nurse anesthetist, who ~~((has ACLS training, and is on-call and available within thirty minutes;~~

~~((b))~~ An operating suite with one RN or qualified designee who is in house and available to the operating suite within five minutes and the remainder of the staff on call and available within thirty minutes. The operating suite shall be equipped with):

(A) Has ACLS training, except this requirement shall not apply to a physician board-certified in anesthesiology;

(B) Has PALS or approved equivalent training; and

(C) Is on-call and available within thirty minutes of notification of activation of trauma response personnel;

~~((b))~~ An operating room with a registered nurse or designee of the operating room staff who is available within five minutes of notification of activation of trauma response personnel, to open the operating room, and to coordinate responsibilities to ensure the operating room is ready for surgery upon arrival of the patient, the surgeon, and the anesthesiologist;

(c) Other essential personnel on-call and available within thirty minutes of notification;

(d) The operating room shall have available:

(i) Ability to provide thermal control equipment for ((patients;));

((~~(ii) X-ray capability;~~) (A) Patient warming;

(B) Blood and fluid warming;

(ii) Radiological capabilities;

(iii) Ability to provide endoscopes ((~~available from elsewhere in the facility~~)) appropriate to trauma resuscitation; and

(iv) Monitoring equipment((-);

((~~(2) A level IV trauma care hospital shall have a post anesthetic recovery unit with appropriate monitoring and resuscitation equipment.~~) (3) Post anesthetic recovery services, with:

(a) Essential personnel on-call and available twenty-four hours every day;

(b) Nurses ACLS trained;

(c) Appropriate monitoring and resuscitation equipment;

(4) ((~~A level IV trauma care hospital's shall have:~~

(a) An ICU)) (a) A critical care unit which meets requirements for a designated level III trauma ((~~hospital~~)) service as described in WAC 246-976-610((~~, except for availability of a mechanical ventilator-respirator and a temporary transvenous pacemaker~~)); or

(b) Written transfer guidelines and agreements with ((~~appropriate facilities to transfer~~)) designated trauma care services for patients requiring ((~~intensive~~)) critical care((-);

(5) ((~~A level IV trauma care hospital shall have~~)) Clinical laboratory services available, ((~~including~~)) for:

(a) Standard analysis of blood, urine, and other body fluids;

(b) Blood gases and pH determination((-);

(6) ((~~A level IV trauma care hospital shall have transfusion~~)) Blood and blood-component services, including:

(a) Blood and blood components available ((~~from~~)) in-house or through community services, to meet patient needs in a timely fashion;

(b) ((~~Ability to perform~~)) Policies and procedures for massive transfusions((~~, or written transfer agreements with facilities having such capability~~)); and

(c) Blood storage capability((-);

(7) ((~~A level IV trauma care hospital shall be able to perform acute hemodialysis~~)) Acute dialysis capabilities, or have written transfer guidelines and agreements ((~~with facilities having such capability~~)) for dialysis service;

(8) ((~~A level IV trauma care hospital shall have:~~

(a) A physician directed burn unit staffed by nursing personnel trained in burn care, and equipped to care for extensively burned patients; or)) Ability to resuscitate and stabilize burn patients; and have ((~~(b)~~)) Written transfer guidelines in accordance with the guidelines of the American Burn Association, and agreements ((~~with a burn center or hospital with burn unit~~)) for burn care;

(9) ((~~A level IV trauma care hospital shall be able~~)) Ability to ((~~manage~~)) resuscitate and stabilize acute head and/or spinal cord injuries((~~, or have written transfer agreements with facilities that have such capabilities. Early transfer to an appropriate designated trauma rehabilitation facility shall be considered.~~)); and

(a) Written transfer guidelines and agreements for patients with head or spinal cord injuries; or

(b) Have neurosurgery, with a neurosurgeon on-call and available within thirty minutes of request by the emergency department physician; or

(c) Early transfer to an appropriate designated trauma rehabilitation facility shall be considered;

(10) ((~~A level IV trauma care hospital shall have~~)) A qualified person assigned to coordinate trauma rehabilitation activities and referrals;

(11) A written plan addressing receipt and transfer of patients by fixed-wing and rotary-wing aircraft.

AMENDATORY SECTION (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

WAC 246-976-680 Designation standards for facilities providing level V trauma care ((~~facilities~~)) services—Administration and organization. ((~~For the purpose of administering trauma care, a designated level V trauma care facility shall~~)) A facility with a designated level V trauma care service shall:

(1) Have written ((~~policy~~)) policies and ((~~patient care~~)) procedures for providing emergency ((~~medical~~)) care, ((~~consistent with regional patient care procedures~~)) twenty-four hours every day for adult and pediatric trauma patients; and

(2) Establish emergency care services ((~~with a nature and scope~~)) consistent with community needs, the approved regional plan, and within the facilities capabilities. The service shall have a policy that identifies and establishes its scope of trauma care for both adult and pediatric trauma patients, including but not limited to:

(a) Initial resuscitation and stabilization;

(b) Admission criteria;

(3) Have a method of activating trauma-response personnel consistent with the scope of trauma care and in keeping with the goals of WAC 246-976-870;

(4) Participate in the state trauma registry as required in WAC 246-976-430 ((~~with a person identified as responsible for coordination of trauma registry activities~~));

((~~(4)~~)) (5) Have a written policy and procedures to divert patients to other designated trauma care services. The policy shall be based on criteria which reflect the ability of the service to resuscitate and stabilize each patient at a particular time; and

(6) Have interfacility transfer guidelines and agreements consistent with WAC 246-976-890;

(7) Have a quality assurance program in accordance with WAC 246-976-881;

(8) Participate in the regional trauma ((~~network~~)) quality assurance program as required in WAC 246-976-910.

AMENDATORY SECTION (Amending Order 323, filed 12/23/92, effective 1/23/93)

WAC 246-976-690 Designation standards for facilities providing level V trauma care ((~~facilities~~)) service—Basic resources and capabilities. A facility with a designated level V trauma care ((~~facility~~)) service shall have:

(1) A physician, physician assistant registered in accordance with chapter 18.71 RCW, or advanced registered

nurse practitioner, on-call and available within twenty minutes of notification, who has(~~(:~~

~~(a))~~ ATLS training, ((or approved equivalent)) except the ATLS requirement shall not apply to a physician board-certified in emergency medicine or board-certified in surgery;

~~((b))~~ Experience in resuscitation and care of trauma patients;

(2) Equipment for resuscitation and life support of adult and pediatric trauma patients, including:

(a) Airway control and ventilation equipment, including:

(i) Airways, neonate to adult;

(ii) Laryngoscope, including curved and straight blades, sizes 0-4;

~~((iii))~~ (iii) Endotracheal tubes ((of all sizes)) available, sizes 2.5 to 8.0, with stylets;

~~((iii))~~ (iv) Bag-valve-mask resuscitator ((with full range of sizes, neonatal to adult)), sizes neonatal, child, and adult;

~~((iv))~~ (v) Sources of oxygen; ((and

~~(v))~~ (vi) Pulse oximeter with infant, child and adult probes; and

(vii) Suction devices;

(b) Cardiac monitoring devices, including:

(i) Electrocardiograph;

~~((e))~~ (ii) Cardiac monitor;

~~((d))~~ (iii) Defibrillator, with pediatric paddles;

~~((e))~~ (c) All standard intravenous fluids and administering devices, including ((intravenous catheters));

(i) Intravenous catheters, size 24g to 14g;

(ii) Intraosseous needles;

(iii) Infusion control device;

~~((f))~~ (d) Gastric lavage equipment;

~~((g))~~ (e) Drugs and supplies necessary for adult and pediatric emergency care;

~~((h))~~ Pneumatic anti-shock garment if use of this device is allowed under facility protocol; (f) Medication chart, tape or other system to assure ready access to information on proper dose-per-kilogram for resuscitation drugs and equipment sizes for pediatric patients;

(g) Immobilization devices, including:

(i) Cervical injury immobilization devices, adult and pediatric sizes;

~~((j))~~ (ii) Long-bone stabilization device; and

~~((k))~~ (iii) Backboard(-);

(3) A plan addressing receipt and transfer of patients by fixed-wing and rotary-wing aircraft.

**AMENDATORY SECTION** (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

**WAC 246-976-720 Designation standards for facilities providing level I pediatric trauma care ((hospitals)) service—Administration and organization.** A facility with a designated level I pediatric trauma care service shall have:

(1) ~~((For the purpose of administering trauma care, a designated level I pediatric hospital shall have a trauma service, including:))~~ (a) Organization and direction by a general surgeon ((who is expert in, and committed to,)) with special competence in care of the injured child. The service

may have as codirector another physician or general surgeon with special competence in care of the injured child;

(b) Ongoing coordination of the trauma care service by a registered nurse with special competence in care of the injured child;

(c) A multidisciplinary trauma committee chaired by the trauma service director, with input to hospital management, including:

(i) A pediatric emergency physician;

(ii) An ((ED)) emergency department registered nurse;

(iii) A ((trauma)) pediatric surgeon or general surgeon with special competence in pediatric trauma care;

(iv) A neurosurgeon;

(v) An orthopaedic surgeon;

(vi) An anesthesiologist;

(vii) The physician director of pediatric ((intensive)) critical care service;

(viii) A pediatrician with special competence in critical care;

(ix) The pediatric trauma care service nurse coordinator;

(x) A pediatric ((intensive)) critical care registered nurse; ((and

~~(ix))~~ (xi) A pediatric intensivist; and

(xii) The trauma rehabilitation coordinator;

(d) The multidisciplinary trauma committee shall adopt an approved method to determine activation of the trauma team, as described in WAC 246-976-870;

~~((d))~~ (e) A trauma ((resuscitation)) team to provide initial evaluation, resuscitation and treatment.

(i) The team shall be organized and directed by a pediatric surgeon ((who is expert in and committed to)) or general surgeon with special competence in care of the injured child, and who assumes responsibility for coordination of overall care of the pediatric trauma patient. The surgeon shall be at least a PGY4.

(ii) All members of the team, including the surgeon, shall be ((in house and)) available within five minutes of notification of team activation.

(iii) The team shall include ((an emergency physician)): ((A)) An emergency physician with special competence in pediatric care, who is:

(A) Responsible for activating the trauma ((resuscitation)) team, using an approved ((scoring system)) method as defined in WAC 246-976-870; and

(B) Responsible for providing team leadership and care for the pediatric trauma patient until the arrival of the general surgeon with special competence in pediatric care in the resuscitation area.

(iv) The trauma care service shall identify all other members of the team ((shall be as specified in the hospital's application for designation)).

(v) The team shall work in conjunction with a pediatric((s intensive care physician)) intensivist or pediatric emergency physician.

~~((e))~~ (f) Specific delineation of pediatric trauma surgery privileges by the medical staff.

(2) ~~((A level I pediatric trauma care hospital shall have an ED with established))~~ An emergency department with written standards ((and procedures)) of care to ensure immediate and appropriate care for pediatric trauma patients.

(3) ~~((A level I pediatric trauma care hospital shall have a))~~ A surgery department, including:

(a) ~~General surgery ((in-house and available upon patient's arrival in the ED, assuming a five minute notification)) with special competence in care of the pediatric trauma patient;~~

(b) ~~((Neurosurgery)) A neurosurgical service. Coverage shall be available within five minutes of notification of team activation, provided by:~~

(i) ~~((In-house and available within five minutes. In-house coverage shall be provided by a board-certified neurosurgeon or surgeon who has been judged competent by the neurosurgical consultants on staff to initiate measures directed toward stabilizing the pediatric patient and to initiate diagnostic procedures; and)) A neurosurgeon; or~~

(ii) ~~((With a neurosurgeon on call and available within thirty minutes.)) A surgeon who has been judged competent by the neurosurgical consultants on staff to initiate measures to stabilize the pediatric patient, and to initiate diagnostic procedures, with a board-certified neurosurgeon on call and available within thirty minutes of notification of team activation.~~

(c) The following surgical services on-call and available within thirty minutes of request by the trauma team leader:

- (i) Cardiac surgery;
- (ii) ~~((Microsurgery;~~
- ~~((iii))~~ Gynecologic surgery;
- ~~((iv))~~ (iii) Hand surgery;
- ~~((v))~~ (iv) Microsurgery;
- (v) Obstetric surgery;
- (vi) Ophthalmic surgery;
- ~~((vi))~~ Oral/dental surgery;))
- (vii) Oral/maxillofacial or otorhinolaryngologic surgery;
- (viii) Orthopaedic surgery;
- ~~((viii))~~ Otorhinolaryngologic surgery;))
- (ix) Pediatric surgery;
- (x) Plastic ~~((and maxillofacial))~~ surgery;
- ~~((x))~~ (xi) Thoracic surgery; ~~((and~~
- ~~((xi))~~ (xii) Urologic surgery; and
- (xiii) Vascular surgery.

(4) ~~((A level I pediatric trauma care hospital shall have))~~ Nonsurgical specialties with special ((expertise)) competence in pediatric care, including:

- (a) Anesthesiology, with an anesthesiologist who is:
  - (i) ~~((ATLS trained;~~
  - ~~((ii))~~ ACLS trained, except this requirement shall not apply to a physician board-certified in anesthesiology;
  - ~~((iii))~~ (ii) PALS or approved equivalent trained; and
  - ~~((iv))~~ ~~In-house and~~ (iii) Available ((on patient's arrival in ED, assuming five minute notification)) within five minutes of team activation;

(b) ~~((General pediatrics in-house and available on patient's arrival in ED, assuming five minute notification, with pediatricians who are:~~

- (i) Board-certified; and
- (ii) PALS or approved equivalent trained;
- ~~((iii))~~ These requirements may be met by a PL-2;)) A radiologist on-call and available for patient service within twenty minutes of notification of team activation;

(c) The following services on-call and available ~~((within thirty minutes))~~ for pediatric patient consultation or management:

- (i) Cardiology;
- (ii) Gastroenterology;

- (iii) General pediatrics;
- (iv) Hematology ~~((pathology));~~
- ~~((iv))~~ (v) Infectious disease ~~((s))~~ specialists;
- ~~((v))~~ (vi) Nephrology;
- ~~((vi))~~ Neuro-radiology;
- ~~((vii))~~ Pediatric cardiology;
- ~~((viii))~~ Pediatric hematology/oncology;
- ~~((ix))~~ (vii) Pediatric neurology;
- (viii) Pathology;
- (ix) Pediatric critical care;
- (x) ~~((Pediatric))~~ Pulmonology; and
- ~~((x))~~ (xi) Psychiatry; ~~((and~~
- ~~((xi))~~ A radiologist.

(d) ~~Pediatric neurology on call and available within one hour.))~~

(5) ~~((A level I pediatric trauma care hospital shall have an approved))~~ Written policy and procedures for access to ancillary services specific for pediatric patients, including:

- (a) Chemical dependency services;
- (b) Child and adult protection services;
- (c) Clergy or pastoral care;
- (d) Nutritionist services;
- (e) Occupational therapy services;
- (f) Pediatric therapeutic recreation;
- (g) Pharmacy, with a pharmacist in-house;
- (h) Physical therapy services;
- (i) Psychological services;
- (j) Rehabilitation services;
- (k) Social services;
- (l) Speech therapy services;

(6) A written policy and procedures to divert patients to other designated ((facilities,)) trauma care services. The policy shall be based on ((it's)) criteria which reflect the service's ability to ((manage)) resuscitate and stabilize each patient at a particular time.

~~((6))~~ A level I pediatric trauma care hospital shall:

(a) Have a quality assurance program in accordance with WAC 246-976-880; and

(b) Cooperate with regional trauma care quality assurance programs throughout the state established pursuant to WAC 246-976-910.)) (7) A trauma registry as required in WAC 246-976-430;

(8) A quality assurance program in accordance with WAC 246-976-881, and cooperate with regional trauma care quality assurance programs throughout the state established pursuant to WAC 246-976-910;

(9) Interfacility transfer guidelines and agreements consistent with WAC 246-976-890.

AMENDATORY SECTION (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

WAC 246-976-730 Designation standards for facilities providing level I pediatric trauma care ((hospitals)) services—Resources and capabilities. A facility with a designated level I pediatric trauma care service shall have:

(1) ~~((A level I pediatric trauma care hospital shall have an ED))~~ An emergency department with:

- (a) A physician director who ~~((is))~~:
- (i) Is board-certified ((or eligible)) in emergency medicine ((or)), pediatric emergency medicine, surgery ((or medicine)) or other relevant specialty; or ((with documented



~~experience as director of an emergency department which has been previously recognized as a level I trauma center either by a regional entity or as verified by the Committee on Trauma of the American College of Surgeons;~~)

(ii) Has documented experience as director of an emergency department which has been previously recognized as a level I trauma center either by a regional entity or as verified by the Committee on Trauma of the American College of Surgeons;

(iii) Is ATLS and ACLS trained, except this requirement shall not apply to a physician board-certified in emergency medicine or in surgery; and

~~((iii) ACLS trained; and))~~

(iv) Is PALS or approved equivalent trained, except this requirement shall not apply to a physician board-certified in pediatric emergency medicine;

(b) Emergency physicians who ~~((are))~~:

(i) Are board-certified ~~((or eligible))~~ in emergency medicine, or pediatric emergency medicine, or in a specialty practicing emergency medicine as their primary practice with special competence in ~~((the))~~ pediatric trauma patients; (this requirement may be met by a surgical resident post graduate year two who is ATLS, ACLS, and PALS or approved equivalent trained, working under the direct supervision of the ~~((physician director of the emergency department))~~ attending emergency department physician, until the arrival of the ~~((attending))~~ surgeon~~((The attending surgeon shall be in-house and available upon the patient's arrival in the ED, assuming five minute notification))~~ to assume leadership of the trauma team);

(ii) ~~((In-house and))~~ Are available within five minutes of the patient's arrival in the ~~((ED))~~ emergency department;

(iii) Are ATLS and ACLS trained, except ~~((that))~~ this requirement shall not apply to a physician board-certified ~~((emergency physicians))~~ in emergency medicine;

(iv) ~~((ACLS trained;~~

~~((+))~~ Are PALS or approved equivalent ~~((pediatric ALS))~~ trained, except this requirement shall not apply to a physician board-certified in pediatric emergency medicine; and

~~((+))~~ (v) Are designated members of the trauma team;

(c) ~~((ED))~~ Registered nurses who:

(i) Are ~~((ACLS))~~ PALS or approved equivalent trained;

(ii) Have successfully completed a trauma life support course as defined in WAC 246-976-885;

(iii) ~~((Are PALS or approved equivalent trained;~~

~~((+))~~ Are in the ~~((ED))~~ emergency department and available within five minutes of patient's arrival in the emergency department;

(d) An area designated for pediatric resuscitation, with equipment for resuscitation and life support of pediatric patients, including~~((+))~~ equipment as described in WAC 246-976-620;

~~((+))~~ Airway control and ventilation equipment including:

(A) ~~Airways;~~

(B) ~~Laryngoscopes, including curved and straight;~~

(C) ~~Endotracheal tubes of all sizes;~~

(D) ~~Bag-valve-mask resuscitator with all mask sizes;~~

(E) ~~Sources of oxygen;~~

(F) ~~Child and neonatal BVM resuscitation device designed to deliver one hundred percent oxygen; and~~

(G) ~~Mechanical ventilation;~~

~~((ii) Suction devices including:~~

~~((A) Back-up suction source;~~

~~((B) Pediatric suction catheters; and~~

~~((C) Tonsil suction tip;~~

~~((iii) Electrocardiograph cardiac monitor defibrillator appropriate to pediatric patients;~~

~~((iv) All standard apparatus to establish central venous pressure monitoring;~~

~~((v) All standard IV fluids and administering devices appropriate for pediatric patients, including:~~

~~((A) IV catheters;~~

~~((B) Intraosseous needles;~~

~~((C) Infusion sets;~~

~~((D) Infusion pumps including micro infusion capabilities;~~

~~((E) Infusion controllers;~~

~~((F) Pediatric dosages/dilutions of medications; and~~

~~((G) IV fluid/blood warmer.~~

~~((vi) Sterile surgical sets appropriate for pediatric patients, for standard ED procedures including:~~

~~((A) Thoracostomy set;~~

~~((B) Chest tubes;~~

~~((C) Tracheostomy set;~~

~~((D) Spinal tap set;~~

~~((E) Peritoneal lavage set; and~~

~~((F) Cricothyrotomy set;~~

~~((vii) Gastric lavage equipment;~~

~~((viii) Drugs and supplies necessary for pediatric emergency care;~~

~~((ix) X-ray capability with twenty-four hour coverage by in-house technicians;~~

~~((x) Respiratory therapy available within five minutes;~~

~~((xi) Two way radio linked with EMS/TC vehicles;~~

~~((xii) Pneumatic anti-shock garment, if included in local protocols for pediatric patients;~~

~~((xiii) Skeletal traction device for cervical injuries;~~

~~((xiv) Backboard;~~

~~((xv) Equipment specific to pediatric trauma care, including:~~

~~((A) Traction splint;~~

~~((B) Blood pressure cuffs in infant and child sizes;~~

~~((C) Foley catheters;~~

~~((D) Rigid cervical collars;~~

~~((E) Doppler;~~

~~((F) Infant scale for accurate weight measurement under twenty-five pounds;~~

~~((G) Temperature controlled heating units with/without open crib;~~

~~((H) Heating/cooling blankets;~~

~~((I) Heat lamp;~~

~~((J) Hypothermia thermometers;~~

~~((K) Expanded scale electronic thermometers;~~

~~((L) Device for assuring maintenance of infant warmth during evaluation and transport;~~

~~((M) Nasogastric/feeding tubes;~~

~~((N) Noninvasive BP monitor; and~~

~~((O) Pulse oximetry.~~

~~((2) A level I pediatric trauma care hospital shall have a general))~~ (e) Routine radiological capabilities by a technician available within five minutes of notification of team activation;

(2) A surgery department including:

(a) An attending pediatric surgeon or general surgeon with special competence in pediatric ((expertise)) care who is ((in-house and)) available ((upon the patient's arrival in the ED, assuming)) within five minutes of notification of team activation, except as provided in (b) of this subsection. The attending surgeon shall:

(i) Provide trauma team leadership upon arrival in the resuscitation area;

(ii) Be board-certified; ((or have graduated from a residency program accredited by the accreditation council of graduate medical education, but who is less than five years out of training;

(ii) Have PALS or approved equivalent training;

(iii) Be ATLS trained;

(iv) Have ((general)) trauma surgery privileges as delineated by the medical staff; ((or))

(b) A post-graduate year four or above surgical resident may initiate evaluation and treatment upon the patient's arrival in the ((ED)) emergency department until the arrival of the attending surgeon. In this case, the attending surgeon shall be available within twenty minutes ((upon)) of notification of team activation. ((The resident shall have ATLS and PALS or approved equivalent training;))

(c) All ((trauma)) general surgeons and surgical residents who are responsible for care and treatment of trauma patients shall be trained in ((ATLS except that this requirement shall not apply to board-certified surgeons;)):

(i) ATLS and ACLS, except this requirement shall not apply to a physician board-certified in surgery;

(ii) PALS or approved equivalent;

(3) ((A level I pediatric trauma care hospital shall have)) An operating ((suite)) room available within five minutes of notification of team activation, with:

(a) ((An operating room adequately staffed and available within five minutes of notification;

(b) Essential personnel, including at least one OR nurse, in-house and available twenty-four hours a day;

(e) A registered nurse or designee of the operating room staff who is available within five minutes of team activation to open the operating room, and to coordinate responsibilities to ensure the operating room is ready for surgery upon arrival of the patient, the surgeon, and the anesthesiologist;

(b) A ((documented method)) written policy providing for ((prompt)) mobilization of ((consecutive)) additional surgical teams for pediatric trauma patients;

((d)) (c) Instruments and equipment ((or capabilities)) appropriate for pediatric surgery, including((=)) equipment as described in WAC 246-976-620;

((i) Cardiopulmonary bypass;

(ii) Operating microscope;

(iii) Thermal control equipment for patient;

(iv) Thermal control equipment for blood;

(v) X-ray capability;

(vi) Pediatric endoscopes/bronchoscopes;

(vii) Craniotomy set;

(viii) Monitoring equipment; and

(ix) Pediatric instruments and equipment;))

(4) ((level I pediatric trauma care hospital shall have a)) post-anesthetic recovery ((room)) unit with:

(a) Essential personnel, including at least one registered nurse ((with critical post-anesthetic nurse training, in-house and)) available twenty-four hours a day;

(b) ((AH)) Nurses ACLS trained;

(c) ((AH)) Nurses PALS or approved equivalent trained;

(d) Appropriate monitoring and resuscitation equipment.

(5) A ((level I pediatric trauma care hospital shall have a pediatric intensive care unit exclusively for children)) pediatric critical care service, with:

(a) A pediatric critical care unit, including patient isolation capacity;

(b) A medical director or ((co-director)) codirector who is ((a board-certified or eligible pediatric intensivist)) board-certified in pediatrics, with sub-board certification in critical care, with:

((i) PALS or approved equivalent training;

((ii) Responsibility for coordinating with the attending staff for the care of pediatric trauma patients, including:

((A) (i) Development and implementation of policies;

((B) Supervision of resuscitation;

((C) (ii) Coordination of medical care;

((D) (iii) Determination of patient isolation;

((E) Ultimate)) (iv) Authority for ((triage)) patient placement decisions;

((F) Maintenance of)) (v) Equipment;

((G) (vi) Coordination of staff education;

((H) Maintenance)) (vii) Coordination of statistics; and

((I) (viii) Identification of criteria for reviewing

quality of care on all pediatric critical care unit trauma patients in conjunction with the trauma service medical director;

((b)) (c) A physician with ((expertise)) special competence in pediatric critical care ((in-house and)) available within five minutes of notification;

((e) A nurse manager responsible for training and coordination of nurses, physicians, and community agencies or services;

(d) Nurses with PALS or approved equivalent training;

(e) Patient isolation capacity; and

(f) (d) A physician-directed code team;

(e) Pediatric critical care nursing with registered nurses who have:

(i) Special competence in pediatric trauma care; and

(ii) Successfully completed PALS or approved equivalent training;

(f) Equipment ((appropriate for pediatric patients, including:)) as described in WAC 246-976-620 and 246-976-825;

((i) Airway control and ventilation including:

(A) Oral and nasopharyngeal airways, all sizes neonatal through adult;

(B) Child, infant and neonatal bag-mask resuscitators, able to deliver one hundred percent oxygen;

(C) Endotracheal tubes with stylet;

(D) Infant and child laryngoscopes, curved and straight;

(E) Suction catheters; and

(F) Tonsil suction tip;

(ii) Oxygen source with concentration controls;

(iii) Cardiac emergency cart;

(iv) Temporary transvenous pacemaker;

(v) Electrocardiograph cardiac monitor defibrillator;

(vi) Electronic pressure monitoring;

(vii) Automated blood pressure apparatus;  
 (viii) Mechanical ventilator/respirator appropriate for entire pediatrics spectrum including:  
 (A) Air/oxygen blenders; and  
 (B) Oxygen analyzers;  
 (ix) Patient weighing devices, including infant scale;  
 (x) Pulmonary function measuring devices;  
 (xi) Temperature control devices including:  
 (A) Temperature controlled heating units with/without open crib;  
 (B) Heating/cooling blankets; and  
 (C) Heat lamp;  
 (xii) Drugs, IV fluids, and supplies including:  
 (A) Intravenous and intraosseous needles and catheters;  
 (B) Pediatric infusion sets;  
 (C) Pediatric dosages/dilutions;  
 (D) Infusion pumps;  
 (E) Infusion controllers; and  
 (F) IV fluid warmer;  
 (xiii) Spotlight;  
 (xiv) Doppler ultrasound BP device;  
 (xv) Suction machine;  
 (xvi) Refractometer;  
 (xvii) Otoloscope/ophthalmoscope;  
 (xviii) Thermometers;  
 (xix) Pressor infuser pumps;  
 (xx) Portable EEG;  
 (xxi) Bedside EKG;  
 (xxii) Bedside echocardiography;  
 (xxiii) Bedside ultrasound;  
 (xxiv) Nuclear scan;  
 (xxv) Noninvasive oximetry and capnometry;  
 (xxvi) Portable transport monitor;  
 (xxvii) Specialized pediatric sets for thoracostomy, tracheostomy, spinal tap, cricothyroidotomy, and peritoneal lavage;  
 (xxviii) Foley catheters;  
 (xxix) Chest tubes;  
 (xxx) Capability for continuous monitoring of:  
 (A) EKG, heart rate;  
 (B) Respiration;  
 (C) Temperature;  
 (D) Arterial pressure; and  
 (E) Central venous pressure;  
 (xxxi) High/low alarms for heart rate, respiratory rate, and all pressures;  
 (xxxii) Provision for life support and cardiopulmonary monitoring; and  
 (xxxiii) Hard copy monitor recording capability.  
 (6) A level I pediatric trauma care hospital shall designate a physician, who has an established relationship to the pediatric critical care team, to respond to pediatric airway emergencies. This requirement may be met by an emergency physician or an ICU physician. (6) Respiratory therapy available within five minutes of notification;  
 (7) A (level I pediatric trauma care hospital shall have)) clinical laboratory ((services)) technologist available within five minutes of notification;  
 (8) Clinical laboratory services, including:  
 (a) ((Micro technique capability;  
 (b)) Standard analyses of blood, urine, and other body fluids;

((e) Blood typing and cross matching;  
 (d)) (b) Coagulation studies;  
 ((e) Comprehensive blood bank, or access to a community central blood bank, and adequate hospital storage facilities;  
 (f)) (c) Blood gases and pH determination;  
 ((g)) (d) Serum and urine osmolality;  
 ((h)) (e) Microbiology;  
 ((i)) (f) Serum alcohol and toxicology determination;  
 ((and  
 (j)) (g) Drug screening; and  
 (h) Microtechnique.  
 ((+)) (9) Blood and blood component services, including:  
(a) Blood and blood components available from in-house or through community services, to meet patient needs;  
(b) Noncrossmatched blood available on patient arrival in the emergency department;  
(c) Blood typing and cross-matching;  
(d) Policies and procedures for massive transfusion;  
(e) Autotransfusions; and  
(f) Blood storage capability;  
 (10) A ((level I pediatric trauma care hospital shall have)) radiological service((s)), ((staffed and equipped)) including:  
 (a) ((The following services in house and)) A technician available within five minutes of notification, able to perform the following:  
 (i) Routine radiological procedures; and  
 (ii) Computerized tomography;  
 (b) ((The following services)) A technician on-call and available within twenty minutes of notification, able to perform the following:  
 (i) Angiography of all types;  
 (ii) Sonography;  
 (iii) Nuclear scanning;  
 ((iv) Fluoroscopy;  
 (v) Contrast studies, including intravenous pyelograms, esophagrams, and barium enemas.  
 (9) A level I pediatric trauma care facility shall have acute hemodialysis)) (11) Acute dialysis capability, or ((a)) written transfer agreements.  
 ((10) A level I pediatric trauma care hospital shall have:))  
 (12)(a) A physician-directed burn unit ((which is)) staffed by nursing personnel trained in burn care, and equipped to care for extensively burned pediatric patients; or  
 (b) Written transfer guidelines and agreements ((with a burn center or hospital with burn unit)) for burn care, in accordance with the guidelines of the American Burn Association.  
 ((11) A level I pediatric trauma care hospital shall be able)) (13) The ability to manage acute head and/or spinal cord injuries((- or have written transfer agreements with facility with such capabilities)). Early transfer to ((a designated)) an appropriate pediatric trauma rehabilitation ((facility)) service shall be considered.  
 ((12) A level I pediatric trauma care hospital shall have respiratory therapy in house and available within five minutes to the patient in the ED or ICU, with a therapist who has special pediatric training and/or experience.

~~(13))~~ (14) A ~~((level I pediatric trauma care hospital shall have a))~~ trauma rehabilitation coordinator ~~((and:))~~ to facilitate the trauma patient's access to pediatric rehabilitation services.

(15)(a) A ~~((physician directed))~~ designated pediatric trauma rehabilitation ~~((medicine))~~ service ~~((which is staffed by nursing personnel trained in rehabilitation care, and is equipped to care for the pediatric trauma patient));~~ or

(b) Written agreements to transfer patients to designated pediatric trauma rehabilitation services when medically feasible.

~~((14) A level I pediatric trauma care hospital shall have ancillary services including:~~

~~(a) Pharmacy, with pharmacist in house;~~

~~(b) Pediatric therapeutic recreation;~~

~~(c) Clergy or pastoral care;~~

~~(d) Social work, with social workers on call and available within thirty minutes, and with written policies and procedures, including comprehensive case finding mechanisms;~~

~~(e) Child protection services;~~

~~(f) Nutritionist services;~~

~~(g) Physical therapy services;~~

~~(h) Occupational therapy and therapeutic recreation services.~~

(15) A level I pediatric trauma care hospital shall have a heliport or) (16) Heli-stop, landing zone or airport located close enough to permit the facility to receive or transfer patients by ~~((air))~~ fixed-wing or rotary-wing aircraft.

**AMENDATORY SECTION** (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-740 Designation standards for facilities providing level I pediatric trauma care ((hospitals)) service—Outreach, ((training)) public education, trauma care education, and research((, and public education)).** A facility with a designated level I pediatric trauma care ~~((hospital))~~ service shall have:

(1) An outreach program with telephone and on-site consultations with physicians in the community and outlying areas regarding pediatric trauma care;

(2) A public education program addressing injury prevention;

(3) Training, including:

(a) A formal program of continuing trauma care education for:

(i) Staff physicians;

(ii) Nurses;

(iii) Allied health care professionals;

(iv) Community physicians; and

(v) Prehospital personnel;

(b) ~~((A general surgery))~~ Residency programs accredited by the accreditation council of graduate medical education, with commitment to training physicians in pediatric trauma management;

(c) In-house initial and maintenance training of invasive manipulative skills for prehospital personnel;

~~((3) A public education program addressing:~~

~~(a) Injury prevention;~~

~~(b) First aid;~~

~~(e) Problems confronting the public, medical profession, and hospitals regarding optimal care for the injured child;))~~

(4) A pediatric trauma research program.

**AMENDATORY SECTION** (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

**WAC 246-976-770 Designation standards for facilities providing level II pediatric trauma care ((hospitals)) service—Administration and organization. A facility with a designated level II pediatric trauma care service shall have:**

(1) ~~((For the purpose of administering trauma care, a designated level II pediatric hospital shall have a trauma service, including:))~~

(a) Organization and direction by a general surgeon ~~((who is expert in, and committed to,))~~ with special competence in care of the injured child. The service may have as codirector another physician with special competence in care of the injured child;

(b) Ongoing coordination of the trauma care service by a registered nurse with special competence in care of the injured child;

(c) A multidisciplinary trauma committee chaired by the trauma service director, with input to hospital management, including:

(i) An emergency physician with special competence in pediatric care;

(ii) An ~~((ED))~~ emergency department registered nurse;

(iii) A ~~((trauma))~~ pediatric surgeon or general surgeon with special competence in pediatric trauma care;

(iv) A neurosurgeon;

(v) An orthopaedic surgeon;

(vi) An anesthesiologist;

(vii) The physician director of pediatric ((intensive)) critical care service;

(viii) A pediatrician with special competence in critical care;

(ix) The pediatric trauma care service nurse coordinator;

(x) A pediatric ((intensive)) critical care registered nurse; ((and

~~((x))~~ (xi) Pediatric intensivist; and

(xii) The trauma rehabilitation coordinator;

(d) The multidisciplinary trauma committee shall adopt an approved method to determine activation of the trauma team, as described in WAC 246-976-870;

(e) A trauma ~~((resuscitation))~~ team to provide initial evaluation, resuscitation and treatment.

(i) The team shall be organized and directed by a pediatric surgeon ((expert in, and committed to,)) or general surgeon with special competence in care of the injured child, and who assumes responsibility for coordination of overall care of the pediatric trauma patient.

(ii) The team shall work in conjunction with a pediatric ~~((intensive care physician))~~ intensivist or pediatric emergency physician.

(iii) All members of the ~~((trauma))~~ team, except the surgeon and the anesthesiologist, shall be ((in-house and)) available within five minutes of notification of team activation.

(iv) The team shall include ~~((an emergency physician));~~

(A) An emergency physician with special competence in pediatric care, who is:

~~(I)~~ Responsible for activating the trauma (~~resuscitation~~) team, using an approved (~~scoring system~~) method as defined in WAC 246-976-870; and

~~((B))~~ (II) Responsible for providing team leadership and care (~~of~~) for the pediatric trauma patient until the arrival of the general surgeon in the resuscitation area.

(III) A pediatric surgeon, or general surgeon with special competence in pediatric trauma surgery, on-call and available within twenty minutes of notification of team activation, who shall assume responsibility for patient care upon arrival in the resuscitation area;

~~(v)~~ (Other members of the team shall be as specified in the hospital's application for designation.) The trauma care service shall identify all other members of the team.

~~((e))~~ (f) Specific delineation of pediatric trauma surgery privileges by the medical staff.

(2) ((A level II pediatric trauma care hospital shall have an ED)) An emergency department with ((established)) written standards ((and procedures)) of care to ensure immediate and appropriate care for pediatric trauma patients.

(3) A ((level II pediatric trauma care hospital shall have a)) surgery department, including:

(a) General surgery, with ((an attending surgeon on call and available on the patient's arrival in the ED, assuming a twenty minute notification)) special competence in care of the pediatric trauma patient;

(b) ((Neurosurgery:

(i) In-house and available within five minutes. In-house coverage shall be provided by a neurosurgeon;)) A neurosurgical service. Coverage shall be available within five minutes of notification of team activation. In-house coverage shall be provided by:

(i) A neurosurgeon; or

(ii) A surgeon(~~s~~) or other physician who has been judged competent by the ((neurologie)) neurosurgical consultants on staff to initiate measures to stabilize the patient, and to initiate diagnostic procedures, with a neurosurgeon on-call and available within thirty minutes of notification of team activation; ((and

(ii) With a neurosurgeon on-call and available within thirty minutes;))

(c) The following surgical services on-call and available within thirty minutes of request by the trauma team leader:

(i) Gynecologic surgery;

(ii) Hand surgery;

(iii) Obstetric surgery;

(iv) Ophthalmic surgery;

((ii) Orthopedie)) (v) Oral/maxillofacial or otorhinolaryngologic surgery;

(vi) Orthopaedic surgery;

((iii) Otorhinolaryngologic surgery;

(iv)) (vii) Pediatric surgery;

(viii) Plastic ((and maxillofacial)) surgery;

((iv)) (ix) Thoracic surgery; ((and

(v)) (x) Urologic surgery; and

(xi) Vascular surgery.

(4) ((A level II pediatric trauma care hospital shall have nonsurgical specialty capabilities with pediatric expertise)) Nonsurgical specialties with special competence in pediatric care, including:

(a) Anesthesiology, with an anesthesiologist who is:  
(i) ((s)) ACLS trained, except this requirement shall not apply to a physician board-certified in anesthesiology;  
(ii) PALS or approved equivalent trained; and  
((ii) Is) (iii) On-call and available within twenty minutes of notification of team activation;

(b) A radiologist on-call and available for patient service within twenty minutes of notification of team activation;

(c) The following ((specialty)) services on-call and available ((within thirty minutes)) for pediatric patient consultation or management:

(i) Cardiology;

(ii) ((Pulmonology;

(iii)) Gastroenterology;

(iii) General pediatrics;

(iv) Hematology((pathology));

(v) Infectious disease specialists;

(vi) Nephrology;

(vii) ((Neuro-radiology)) Neurology;

(viii) ((General pediatrics, with board-certified pediatricians who are PALS or approved equivalent trained; and)) Pathology;

(ix) ((A radiologist.)) Pediatric critical care; and

(x) Pulmonology;

(5) Written policy and procedures for access to ancillary services specific for pediatric patients, including:

(a) Chemical dependency services;

(b) Child and adult protection services;

(c) Clergy or pastoral care;

(d) Nutritionist services;

(e) Occupational therapy services;

(f) Pediatric therapeutic recreation;

(g) Pharmacy;

(h) Physical therapy services;

(i) Rehabilitation services;

(j) Social services; and

(k) Speech therapy services.

((5)) (6) A ((level II pediatric trauma care hospital shall have an approved)) written policy and procedures to divert patients to other designated ((facilities)) trauma care services. The policy shall be based on ((it's)) criteria which reflect the service's ability to ((manage)) resuscitate and stabilize each patient at a particular time.

((6)) (7) A trauma registry as required in WAC 246-976-430.

(8) A ((level II pediatric trauma care hospital shall have a)) quality assurance program in accordance with WAC ((246-976-880)) 246-976-881; and cooperate with regional trauma care quality assurance programs throughout the state established pursuant to WAC 246-976-910.

(9) Interfacility transfer guidelines and agreements consistent with WAC 246-976-890.

**AMENDATORY SECTION** (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

**WAC 246-976-780 Designation standards for facilities providing level II pediatric trauma care ((hospitals)) service—Basic resources and capabilities. A facility with a designated level II pediatric trauma care service shall have:**

(1) ~~((A level II pediatric trauma care hospital shall have an ED))~~ An emergency department, with:

(a) A physician director who is:

(i) Board-certified ~~((or eligible))~~ in emergency medicine or pediatric emergency medicine;

(ii) ATLS trained, except this requirement shall not apply to a physician board-certified in emergency medicine; and

(iii) ~~((ACLS trained; and~~

~~((iv)))~~ PALS or approved equivalent trained, except this requirement shall not apply to a physician board-certified in pediatric emergency medicine.

(b) ~~((Emergency))~~ Physicians who ((are)):

(i) Are board-certified ((or eligible)) in emergency medicine, or pediatric emergency medicine, or board-certified in a specialty practicing emergency medicine as their primary practice with special ((competency)) competence in the care of ((the)) pediatric trauma patients;

(ii) ~~((In-house and))~~ Are available within five minutes of patient's arrival in the emergency department;

(iii) Are ATLS and ACLS trained, except ((that)) this requirement shall not apply to a physician board-certified ((emergency physicians)) in emergency medicine;

(iv) ~~((ACLS trained;~~

~~((v)))~~ Are PALS or approved equivalent trained, except this requirement shall not apply to a physician board-certified in pediatric emergency medicine; and

~~((vi) Designated))~~ (v) Are designated as members of the trauma team;

(c) ~~((ED))~~ Registered nurses who:

(i) Are ((ACLS)) PALS or approved equivalent trained;

(ii) Have successfully completed a trauma life support course as defined in WAC 246-976-885;

(iii) ~~((Are PALS or approved equivalent trained;~~

~~((iv)))~~ Are in the ((ED)) emergency department and available ((to the patient)) within five minutes of patient's arrival in the emergency department;

(d) ~~((A designated area))~~ An area designated for pediatric resuscitation, with equipment for ((pediatric)) resuscitation and life support of pediatric patients, including ((s)) equipment as described in WAC 246-976-620;

~~((i))~~ Airway control and ventilation equipment including:

~~(A) Airways;~~

~~(B) Laryngoscopes, including curved and straight;~~

~~(C) Endotracheal tubes of all sizes;~~

~~(D) Bag-valve-mask resuscitator with all mask sizes;~~

designed to deliver one hundred percent oxygen;

~~(E) Sources of oxygen; and~~

~~(F) Mechanical ventilation;~~

~~(ii) Suction devices including:~~

~~(A) Back-up suction source;~~

~~(B) Suction catheters; and~~

~~(C) Tonsil suction tip;~~

~~(iii) Electrocardiograph/cardiac monitor/defibrillator;~~

~~(iv) Apparatus to establish central venous pressure monitoring;~~

~~(v) All standard IV fluids and administering devices, including:~~

~~(A) IV catheters;~~

~~(B) Intraosseous needles;~~

~~(C) Infusion sets;~~

~~(D) Infusion pumps including micro-infusion capabilities;~~

~~(E) Infusion controllers;~~

~~(F) Pediatric dosages/dilutions of medications; and~~

~~(G) IV fluid/blood warmer;~~

~~(vi) Sterile surgical sets for procedures standard for EDs including:~~

~~(A) Thoracostomy set;~~

~~(B) Chest tubes;~~

~~(C) Tracheostomy set;~~

~~(D) Spinal tap set;~~

~~(E) Peritoneal lavage set; and~~

~~(F) Cricothyrotomy set;~~

~~(vii) Gastric lavage equipment;~~

~~(viii) Drugs and supplies necessary for pediatric emergency care;~~

~~(ix) X-ray capability with twenty-four-hour coverage by in-house technicians;~~

~~(x) Respiratory therapy available within five minutes;~~

~~(xi) Two-way radio linked with EMS vehicles;~~

~~(xii) Pneumatic anti-shock garment, if included in local pediatric protocols;~~

~~(xiii) Skeletal traction device for cervical injuries;~~

~~(xiv) Backboard;~~

~~(xv) Specialized pediatric equipment including:~~

~~(A) Traction splint;~~

~~(B) Blood pressure cuffs in infant, child sizes;~~

~~(C) Foley catheters;~~

~~(D) Rigid cervical collars in pediatric sizes;~~

~~(E) Doppler;~~

~~(F) Infant scale for accurate weight measurement under twenty-five pounds;~~

~~(G) Temperature controlled heating units with/without open crib;~~

~~(H) Heating/cooling blankets;~~

~~(I) Heat lamp;~~

~~(J) Hypothermia thermometers;~~

~~(K) Expanded scale electronic thermometers;~~

~~(L) Device for assuring maintenance of infant warmth during evaluation and transport;~~

~~(M) Nasogastric/feeding tubes;~~

~~(N) Noninvasive blood pressure monitor; and~~

~~(O) Pulse oximetry.)~~

(e) Routine radiological capabilities by a technician available within five minutes of notification of team activation;

(2) A ~~((level II pediatric trauma care hospital shall have a general))~~ surgery department, including:

(a) An attending pediatric surgeon, or general surgeon with special competence in pediatric care, who is on-call and available ((upon the patient's arrival in the ED, assuming twenty minute notification)) within twenty minutes of notification of team activation. The attending surgeon shall:

(i) Provide trauma team leadership upon arrival in the resuscitation area;

(ii) Be board-certified; ((or have graduated from a residency program accredited by the accreditation council of graduate medical education, but who is less than five years out of training;

~~((ii)))~~ (iii) Have ((general)) trauma surgery privileges as delineated by the medical staff; ((or))

~~(b) ((A post-graduate year four or above surgical resident may initiate evaluation and treatment upon the patient's arrival in the ED until the arrival of the attending surgeon. The attending surgeon shall be available within twenty minutes upon notification. The resident shall have ATLS and PALS or approved equivalent training;~~

~~(e)) All ((trauma)) general surgeons who are responsible for care and treatment of trauma patients shall be trained in ((ATLS, except that this requirement shall not apply to board-certified surgeons;));~~

~~((d) All trauma surgeons trained in)) (i) ATLS, except this requirement shall not apply to a physician board-certified in surgery;~~

~~(ii) PALS or approved equivalent.~~

~~(3) ((A level II pediatric trauma care hospital shall have an operating suite adequately staffed with one operating room nurse or operating room qualified designee who is in-house and available to the operating suite within five minutes and the remainder of the staff on-call and available within twenty minutes. The operating suite shall have equipment appropriate for pediatric surgery, including:)) An operating room available within five minutes of notification of team activation, with:~~

~~(a) A registered nurse or designee of the operating room staff who is available within five minutes of notification of team activation to open the operating room, and to coordinate responsibilities to ensure the operating room is ready for surgery upon arrival of the patient, the surgeon, and the anesthesiologist;~~

~~(b) Other essential personnel on-call and available within twenty minutes of notification of team activation;~~

~~(c) A written policy providing for mobilization of additional surgical teams for pediatric trauma patients;~~

~~(d) Instruments and equipment appropriate for pediatric surgery, including equipment as described in WAC 246-976-620;~~

~~((a) Thermal control equipment for patient;~~

~~(b) Thermal control equipment for blood;~~

~~(c) X-ray capability;~~

~~(d) Endoscopes/bronchoscopes; and~~

~~(e) Monitoring equipment.))~~

~~(4) A ((level II pediatric trauma care hospital shall have a)) post-anesthetic recovery ((room)) unit, with:~~

~~(a) Essential personnel, including at least one registered nurse ((with critical post-anesthetic nurse training;)) on-call and available twenty-four hours a day; and~~

~~(b) Nurses ACLS trained;~~

~~(c) Nurses PALS or approved equivalent trained;~~

~~(d) Appropriate monitoring and resuscitation equipment.~~

~~(5) A ((level II pediatric trauma care hospital shall have a)) pediatric ((intensive)) critical care service, ((including)) with:~~

~~(a) A pediatric critical care unit, including patient isolation capacity;~~

~~(b) A medical director or ((co-director)) codirector who is board-certified ((or eligible in pediatric intensive care, who has)) in pediatrics with sub-board certification in critical care, with:~~

~~((i) PALS or approved equivalent training;~~

~~((ii)) Responsibility for coordinating with the attending staff for the care of pediatric trauma ((care)) patients, including:~~

~~((A)) (i) Development and implementation of policies;~~  
~~((B) Supervision of resuscitation;~~  
~~(C)) (ii) Coordination of medical care;~~  
~~((D)) (iii) Determination of patient isolation;~~  
~~((E) Ultimate)) (iv) Authority for ((triage)) patient placement decisions;~~

~~((F) Maintenance of) (v) Equipment;~~

~~((G)) (vi) Coordination of staff education;~~

~~((H) Maintenance)) (vii) Coordination of statistics; and~~

~~((I)) (viii) Identification of criteria for reviewing quality of care on all pediatric critical care unit trauma patients, in conjunction with the trauma service medical director;~~

~~((b) Patient isolation capacity;))~~

~~(c) A physician with ((expertise)) special competence in pediatric critical care ((in-house and)) available within five minutes of notification;~~

~~(d) A physician-directed code team;~~

~~((d)) (e) Pediatric ((intensive)) critical care nursing, with registered nurses who have:~~

~~(i) ((A pediatric nurse manager responsible for training and coordination of nurses, physicians, administration, and community agencies or services;~~

~~(ii) Nurses caring for pediatric trauma patients who have completed PALS or approved equivalent training; and)) Special competence in pediatric trauma care; and~~

~~(ii) Successfully completed PALS or approved equivalent training;~~

~~((e)) (f) Equipment ((appropriate for pediatric patients including:)) as described in WAC 246-976-620 and 246-976-825.~~

~~((i) Airway control and ventilation including:~~

~~(A) Airways;~~

~~(B) Child and neonatal BVM designed to deliver one hundred percent oxygen;~~

~~(C) Bag-mask resuscitators, all sizes;~~

~~(D) Endotracheal tubes with stylet;~~

~~(E) Infant and child laryngoscopes, curved and straight;~~

~~(F) Suction catheters; and~~

~~(G) Tonsil suction tip;~~

~~(ii) Oxygen source with concentration controls;~~

~~(iii) Cardiac emergency cart;~~

~~(iv) Temporary transvenous pacemaker;~~

~~(v) Electrocardiograph cardiac monitor defibrillator;~~

~~(vi) Electronic pressure monitoring;~~

~~(vii) Mechanical ventilator/respirator appropriate for entire pediatric spectrum including:~~

~~(A) Air/oxygen blenders;~~

~~(B) Oxygen analyzers;~~

~~(viii) Patient weighing devices, including infant scale;~~

~~(ix) Pulmonary function measuring devices;~~

~~(x) Temperature control devices including:~~

~~(A) Temperature controlled heating units with/without open crib;~~

~~(B) Heating/cooling blankets; and~~

~~(C) Heat lamp;~~

~~(xi) Drugs, IV fluids and supplies, including:~~

~~(A) Needles and catheters;~~

~~(B) Infusion sets;~~

~~(C) Infusion pumps;~~

~~(D) Infusion controllers; and~~

~~(E) IV fluid warmer;~~

(xii) ~~Intraosseous needles and catheters;~~  
 (xiii) ~~Spotlight;~~  
 (xiv) ~~Doppler ultrasound BP device;~~  
 (xv) ~~Suction machine;~~  
 (xvi) ~~Refractometer;~~  
 (xvii) ~~Otoscope/ophthalmoscope;~~  
 (xviii) ~~Thermometers;~~  
 (xix) ~~Pressor infuser pumps;~~  
 (xx) ~~Portable EEG;~~  
 (xxi) ~~Bedside EKG;~~  
 (xxii) ~~Noninvasive oximetry and capnometry;~~  
 (xxiii) ~~Portable transport monitor;~~  
 (xxiv) ~~Sets for thoracostomy, tracheostomy, spinal tap, cricothyroidotomy, and peritoneal lavage;~~  
 (xxv) ~~Foley catheters;~~  
 (xxvi) ~~Chest tubes;~~  
 (xxvii) ~~Capability for continuous monitoring of:~~  
 (A) ~~EKG, heart rate;~~  
 (B) ~~Respiration;~~  
 (C) ~~Temperature;~~  
 (D) ~~Arterial pressure; and~~  
 (E) ~~Central venous pressure;~~  
 (xxviii) ~~High/low alarms for heart rate, respiratory rate, and all pressures;~~  
 (xxix) ~~Provision for life support and cardiopulmonary monitoring; and~~  
 (xxx) ~~Hard copy monitor recording capability.~~

(6) ~~A level II pediatric trauma care hospital shall designate one or more physicians, who have an established relationship to the pediatric trauma resuscitation team, to respond to pediatric airway emergencies. This requirement may be met by an emergency physician or an ICU physician.)~~

(6) Respiratory therapy available within five minutes of notification;

~~(7) A ((level II pediatric trauma care hospital shall have)) clinical laboratory ((services)) technologist available ((twenty-four hours a day, including:)) within five minutes of notification;~~

(8) Clinical laboratory services, including:

(a) ~~((Laboratory technician in-house;~~  
 (b) ~~Micro-technique capability;~~  
 (e)) ~~Standard analyses of blood, urine, and other body fluids;~~  
 ((d)) ~~Blood typing and cross matching;~~  
 (e)) ~~(b) Coagulation studies;~~  
 ((f)) ~~Comprehensive blood bank, or through access to a community central blood bank, and adequate hospital storage facilities;~~  
 (g)) ~~(c) Blood gases and pH determination;~~  
 ((h)) ~~(d) Serum and urine osmolality;~~  
 ((i)) ~~(e) Microbiology;~~  
 ((j)) ~~(f) Serum alcohol and toxicology determination;~~  
 ((and  
 (k)) ~~(g) Drug screening((-); and~~  
 (h) ~~Microtechnique;~~  
 ((8) ~~A level II pediatric trauma care hospital shall have)) (9) Blood and blood component services, including:~~  
 (a) ~~Blood and blood components available from in-house or through community services, to meet patient needs;~~  
 (b) ~~Noncrossmatched blood available on patient arrival in the emergency department;~~

~~(c) Blood typing and cross-matching;~~  
~~(d) Policies and procedures for massive transfusion;~~  
~~(e) Autotransfusions; and~~  
~~(f) Blood storage capability;~~  
 (10) Radiological services, including:  
 (a) A technician available within five minutes of notification, able to perform routine radiologic procedures ((in-house and available within five minutes));  
 (b) ~~((Contrast studies including intravenous pyelograms, esophagrams, and barium enemas, on-call and available within twenty minutes;~~  
 (e) ~~The following services)) A technician on-call and available within twenty minutes of notification, able to perform the following:~~  
 (i) ~~Angiography of all types;~~  
 (ii) ~~Computerized tomography;~~  
 (iii) ~~Sonography;~~  
 ((iii) ~~Computerized tomography; and~~  
 (iv) ~~Fluoroscopy.~~  
 (9) ~~A level II pediatric trauma care hospital shall have respiratory therapy with a trained therapist in-house.~~  
 (10) ~~A level II pediatric trauma care hospital shall have a pharmacy, with pharmacist on-call and available within twenty minutes.~~  
 (11) ~~A level II pediatric trauma care hospital shall have acute hemodialysis)) (11) Acute dialysis capability, or ((a)) written transfer agreements.~~  
 (12) ~~((A level II pediatric trauma care hospital shall have:)) (a) A physician-directed burn unit ((which is)) staffed by nursing personnel trained in burn care; and ((+)) equipped to care for extensively burned pediatric patients; or~~  
 (b) Written transfer guidelines and transfer agreements ((with a burn center or hospital with burn unit)) for burn care, in accordance with the guidelines of the American Burn Association.  
 (13) ~~((A level II pediatric trauma care hospital shall be able to manage acute head and/or spinal cord injuries, or have written transfer agreements with a facility that has such capabilities. Early transfer to an appropriate designated rehabilitation facility shall be considered.)) (a) The ability to manage acute head and/or spinal cord injuries; or~~  
 (b) Written transfer guidelines and agreements for head and spinal cord injuries.  
 (c) Early transfer to an appropriate designated trauma rehabilitation service shall be considered;  
 (14) ~~A ((level II pediatric trauma care hospital shall have a)) designated trauma rehabilitation coordinator to facilitate the trauma patient's access to pediatric rehabilitation services; ((and:))~~  
 (15)(a) ~~A ((physician directed)) designated pediatric trauma rehabilitation ((medicine)) service ((which is staffed by nursing personnel trained in pediatric rehabilitation care; and is equipped to care for pediatric trauma patients)); or~~  
 (b) Written agreements to transfer patients to a designated pediatric trauma rehabilitation service((s)) when medically feasible.  
 ((15) ~~A level II pediatric trauma care hospital shall have ancillary services including:~~  
 (a) ~~Clergy or pastoral care;~~  
 (b) ~~Social work, with social workers on-call and available within thirty minutes, and with written policies and~~



procedures including comprehensive case finding mechanisms;

- ~~(c) Child protection services;~~
- ~~(d) Nutritionist services;~~
- ~~(e) Physical therapy services;~~
- ~~(f) Occupational therapy and therapeutic recreation services;))~~

(16) ~~((A level II pediatric trauma care hospital shall have a heliport or))~~ A heli-stop, landing zone or airport located close enough to permit the facility to receive or transfer patients by ~~((air))~~ fixed-wing or rotary-wing aircraft.

**AMENDATORY SECTION** (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

**WAC 246-976-790 Designation standards for facilities providing level II pediatric trauma care ((hospitals)) service—((Education and training programs)) Outreach, public education, and trauma care education.**

A facility with a designated level II pediatric trauma care ~~((hospital))~~ service shall have:

(1) An outreach program with telephone and on-site consultations with physicians of the community and outlying areas regarding pediatric trauma care;

(2) A public education program addressing((:

~~(a) Injury prevention;~~

~~(b) Standard first aid;~~

~~(c) Problems confronting the public, medical profession, and hospitals regarding optimal care for the injured child))~~ injury prevention;

~~((2))~~ (3) A formal program of continuing trauma care education ((provided by the facility for staff physicians, nurses, allied health personnel, community physicians, and prehospital personnel;)) for:

(a) Staff physicians;

(b) Nurses;

(c) Allied health care professionals;

(d) Community physicians; and

(e) Prehospital personnel;

~~((3))~~ (4) Make the facility available for initial and maintenance training of invasive manipulative skills for prehospital personnel.

**AMENDATORY SECTION** (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

**WAC 246-976-810 Designation standards for facilities providing level III pediatric trauma care ((hospitals)) service—Administration and organization.** A facility with a designated level III pediatric trauma care service shall have:

(1) ~~((For the purpose of administering trauma care, a designated level III pediatric trauma care hospital shall have a trauma service including:))~~ (a) Organization and direction by a general surgeon or other physician ~~((expert in, and committed to;))~~ with special competence in care of the injured child. The service may have as codirector another physician with special competence in care of the injured child;

(b) Ongoing coordination of the trauma care service by a registered nurse with special competence in care of the injured child;

(c) A multidisciplinary trauma committee chaired by the trauma service director, with input to hospital management, including:

(i) An emergency physician with special competence in pediatric trauma care;

(ii) An ~~((ED))~~ emergency department registered nurse;

(iii) A ~~((trauma))~~ general surgeon with special competence in pediatric trauma care;

(iv) An orthopaedic surgeon;

(v) An anesthesiologist;

~~((v))~~ Director of pediatric intensive care unit;))

(vi) The pediatric trauma care service nurse coordinator;

(vii) A pediatric ~~((intensive))~~ critical care registered nurse; ((and

~~((vii))~~ (viii) A pediatrician with special competence in critical care; and

(ix) The trauma rehabilitation coordinator;

(d) The multidisciplinary trauma committee shall adopt an approved method to determine activation of the trauma team, as described in WAC 246-976-870;

(e) A trauma ((resuscitation)) team to provide initial evaluation, resuscitation and treatment.

(i) The team shall be organized and directed by a general surgeon ((who is expert in and committed to)) with special competence in care of the injured child; and who assumes responsibility for coordination of overall care of the pediatric trauma patient; ((and who is on-call and available within thirty minutes;))

(ii) All members of the team, except the surgeon and the anesthesiologist or CRNA (if a member of the team), shall be ((in-house and)) available within five minutes of notification of team activation;

(iii) The team shall include ((an emergency physician):

(A) An emergency physician with special competence in pediatric trauma care, who is:

(I) Responsible for activating the trauma ((resuscitation)) team, using an approved ((scoring system)) method as defined in WAC 246-976-870; and

~~((B))~~ (II) Responsible for providing team leadership and care for the pediatric trauma patient until the arrival of the general surgeon in the resuscitation area;

~~((iv))~~ Other members of the team shall be as specified in the hospital's application for designation)) (B) A pediatric surgeon, or general surgeon with special competence in pediatric trauma surgery, on-call and available within thirty minutes of notification of team activation, who shall assume responsibility for patient care upon arrival in the resuscitation area;

(C) The trauma care service shall identify all other members of the team.

~~((e))~~ (f) Specific delineation of pediatric trauma surgery privileges by the medical staff.

(2) ~~((A level III pediatric trauma care hospital shall have an ED))~~ An emergency department with ((established)) written standards ((and procedures)) of care to ensure immediate and appropriate care for pediatric trauma patients.

(3) ~~((A level III pediatric trauma care hospital shall have a))~~ surgery department ((that includes an attending surgeon who is on-call and available within thirty minutes; and)), including:

(a) ~~((Has))~~ General surgery ((privileges)), with special competence in care of the pediatric trauma patient;

~~(b) ((Has PALS or approved equivalent training; (e) Has ATLS training:)) (i) Written transfer guidelines and agreements for head and spinal cord injuries; or (ii) Neurosurgery, with a neurosurgeon on-call and available within thirty minutes of notification of team activation;~~

~~(c)(i) Written transfer guidelines and procedures for patients requiring orthopaedic surgery; or~~

~~(ii) Orthopaedic surgery, with an orthopaedic surgeon on-call and available within thirty minutes of request by the trauma team leader;~~

~~(4) ((A level III pediatric trauma care hospital shall have)) Nonsurgical specialties, including:~~

~~(a) Anesthesiology, ((by)) with an anesthesiologist or certified registered nurse anesthetist, who is ((PALS or approved equivalent trained, and who is on-call and available within thirty minutes-));~~

~~(i) ACLS trained, except this requirement shall not apply to a physician board-certified in anesthesiology;~~

~~(ii) PALS or approved equivalent trained; and~~

~~(iii) On-call and available within thirty minutes of notification of team activation;~~

~~(b) A radiologist on-call and available for patient service within thirty minutes of notification of team activation;~~

~~(c) General pediatrics, with board-certified pediatricians on-call and available for pediatric patient consultation or management;~~

~~(5) Written policy and procedures for access to ancillary services specific for pediatric patients, including:~~

~~(a) Chemical dependency services;~~

~~(b) Child and adult protection services;~~

~~(c) Clergy or pastoral care;~~

~~(d) Nutritionist services;~~

~~(e) Pediatric therapeutic recreation;~~

~~(f) Pharmacy;~~

~~(g) Physical therapy services;~~

~~(h) Rehabilitation services;~~

~~(i) Social services;~~

~~(6) A ((level III pediatric trauma care hospital shall have an approved)) written policy and procedures to divert patients to other designated ((facilities-)) trauma care services. The policy shall be based on ((it's)) criteria which reflect the service's ability to ((manage)) resuscitate and stabilize each patient at a particular time((-));~~

~~((6)) (7) A trauma registry as required by WAC 246-976-430;~~

~~(8) A ((level III trauma care hospital shall have a)) quality assurance program in accordance with WAC ((246-976-880)) 246-976-881; and cooperate with regional trauma care quality assurance programs throughout the state established pursuant to WAC 246-976-910;~~

~~(9) Interfacility transfer guidelines and agreements consistent with WAC 246-976-890.~~

**AMENDATORY SECTION** (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

**WAC 246-976-820 Designation standards for facilities providing level III pediatric trauma care ((hospitals) service—Basic resources and capabilities.** A facility with a designated level III pediatric trauma care service shall have:

~~(1) ((Level III pediatric trauma care hospitals shall have an ED)) An emergency department with:~~

~~(a) A physician director who is:~~

~~(i) Board-certified ((or eligible)) in emergency medicine or pediatric emergency medicine; ((or in a specialty practicing emergency medicine as their primary practice with special competency in the care of the pediatric trauma patient;))~~

~~(ii) ATLS and ACLS trained, except this requirement shall not apply to a physician board-certified in emergency medicine; and~~

~~(iii) ((ACLS trained)) PALS or approved equivalent trained, except this requirement shall not apply to a physician board-certified in pediatric emergency medicine;~~

~~(b) ((Emergency)) Physicians who ((are)):~~

~~(i) ((Qualified and experienced in caring for)) Have special competence in the resuscitation and care of pediatric trauma patients ((with traumatic injuries));~~

~~(ii) ((Capable of initiating resuscitation measures;~~

~~(iii) In-house and)) Are available within five minutes of patient's arrival in the emergency department;~~

~~((iv)) (iii) Are ATLS and ACLS trained, except this requirement shall not apply to a physician board-certified in emergency medicine;~~

~~((v) ACLS trained;~~

~~(vi)) (iv) Are PALS or approved equivalent trained, except this requirement shall not apply to a physician board-certified in pediatric emergency medicine; and~~

~~((vii) Designated)) (v) Are designated as members of the trauma team;~~

~~(c) ((ED)) Registered nurses who ((are)):~~

~~(i) ((ACLS trained)) Are PALS or approved equivalent trained;~~

~~(ii) ((Trained in)) Have successfully completed a trauma life support course as defined in WAC 246-976-885;~~

~~(iii) ((PALS or approved equivalent trained; and~~

~~(iv) In-house and)) Are in the emergency department and available within five minutes of patient's arrival in the emergency department;~~

~~(d) ((A designated area)) An area designated for pediatric resuscitation, with equipment for resuscitation and life support ((for the)) of pediatric ((trauma)) patients, including((-)) equipment as described in WAC 246-976-620;~~

~~((i) Airway control and ventilation equipment including:~~

~~(A) Airways;~~

~~(B) Laryngoscopes including curved and straight;~~

~~(C) Endotracheal tubes of all sizes;~~

~~(D) Bag-valve-mask resuscitator with all mask sizes;~~

~~(E) Sources of oxygen;~~

~~(F) Child and neonatal BVM resuscitation device designed to deliver one hundred percent oxygen; and~~

~~(G) Mechanical ventilator;~~

~~(ii) Suction devices, including:~~

~~(A) Back-up suction source;~~

~~(B) Suction catheters; and~~

~~(C) Tonsil suction tip;~~

~~(iii) Electrocardiograph cardiac monitor defibrillator;~~

~~(iv) Standard IV fluids and administering devices, including:~~

~~(A) IV catheters;~~

~~(B) Intraosseous needles;~~

~~(C) Infusion sets;~~

- ~~(D) Infusion pumps including micro-infusion capabilities;~~
- ~~(E) Infusion controllers;~~
- ~~(F) IV fluid/blood warmer;~~
- ~~(v) Sterile surgical sets for pediatric ED procedures, including:~~
- ~~(A) Thoracostomy set;~~
- ~~(B) Chest tubes;~~
- ~~(C) Tracheostomy set;~~
- ~~(D) Spinal tap set;~~
- ~~(E) Peritoneal lavage set; and~~
- ~~(F) Cricothyrotomy set;~~
- ~~(vi) Gastric lavage equipment;~~
- ~~(vii) Drugs and supplies necessary for pediatric emergency care;~~
- ~~(viii) X ray capability, with technician on call and available within twenty minutes;~~
- ~~(ix) Two way radio linked with vehicles of the EMS/TC system;~~
- ~~(x) Pneumatic anti-shock garment, if included in local pediatric protocols;~~
- ~~(xi) Backboard;~~
- ~~(xii) Specialized pediatric equipment including:~~
- ~~(A) Traction splint;~~
- ~~(B) Blood pressure cuffs in infant, child sizes;~~
- ~~(C) Foley catheters;~~
- ~~(D) Rigid cervical collars;~~
- ~~(E) Doppler;~~
- ~~(F) Infant scale for accurate weight measurement under twenty five pounds;~~
- ~~(G) Temperature controlled heating units with/without open crib;~~
- ~~(H) Heating/cooling blankets;~~
- ~~(I) Heat lamp;~~
- ~~(J) Hypothermia thermometers;~~
- ~~(K) Expanded scale electronic thermometers;~~
- ~~(L) Device for assuring maintenance of infant warmth during evaluation and transport; and~~
- ~~(M) Nasogastric/feeding tubes.))~~
- (e) Routine radiological capabilities, by a technician available within twenty minutes of notification of team activation.
- (2) ((A level III pediatric trauma care hospital shall have an operating suite adequately staffed)) A surgery department, including an attending surgeon who is:
- On-call and available within thirty minutes of notification of team activation; and
- (a) Has general surgery privileges, with special competence in pediatric care;
- (b) Has PALS or approved equivalent training;
- (c) Has ATLS, except this requirement shall not apply to a physician board-certified in surgery.
- (3) An operating room available within five minutes of notification of team activation, with ((one RN who is in-house and available to the operating suite within five minutes and the remainder of the staff on call and available within twenty minutes. The operating suite shall be equipped with)):
- (a) ((Thermal control equipment for patient;
- (b) Thermal control equipment for blood;
- (c) X ray capability; and
- (d) Monitoring equipment.

(3)) A registered nurse or designee of the operating room staff who is available within five minutes of notification of team activation to open the operating room, and to coordinate responsibilities to ensure the operating room is ready for surgery upon arrival of the patient, the surgeon, and the anesthesiologist;

(b) Other essential personnel on-call and available within thirty minutes of notification of team activation;

(c) A written policy providing for mobilization of additional surgical teams for pediatric trauma patients.

(d) Instruments and equipment appropriate for pediatric surgery, including equipment as described in WAC 246-976-620;

(4) A ((level III pediatric trauma care hospital shall have a) post-anesthetic recovery ((room)) unit with ((appropriate monitoring and resuscitation equipment, or a policy that pediatric patients recover in the pediatric ICU if the postanesthetic recovery room is not available.

(4) A level III pediatric trauma care hospital shall have a pediatric intensive care service for trauma patients));

(a) Essential personnel on-call and available twenty-four hours a day;

(b) Nurses ACLS trained;

(c) Nurses PALS or approved equivalent trained;

(d) Appropriate monitoring and resuscitation equipment;

(5) Availability of pediatric critical care, with:

(a) A written transfer agreement and guidelines for pediatric trauma patients requiring critical care services; or

(b) A pediatric critical care unit in accordance with standards as delineated for level II pediatric trauma service in WAC 246-976-780(5), except the medical director or ((e-director)) codirector ((may)) shall be board-certified ((or eligible in pediatric intensive care)) or another relevant specialty with ((documented experience)) special competence in pediatric critical care; ((or

(b) Have a written transfer agreement to a designated level I or II pediatric trauma care facility.

(5)) (c) A physician with special competence in pediatric critical care, available within five minutes of notification;

(d) A physician-directed code team;

(e) Pediatric critical care nursing, with registered nurses who have:

(i) Special competence in pediatric trauma care; and

(ii) Completed PALS or approved equivalent training;

(f) Equipment as described in WAC 246-976-620 and WAC 246-976-825.

(6) Respiratory therapy on-call and available within five minutes of notification;

(7) A ((level III pediatric trauma care hospital shall have)) clinical laboratory ((services)) technologist available within twenty minutes of notification;

(8) Clinical laboratory services, including:

(a) Standard analyses of blood, urine, and other body fluids;

(b) ((Blood typing and cross matching;

(e)) Coagulation studies;

((d) Comprehensive blood bank or access to a community central blood bank and adequate hospital storage facilities;

(e)) (c) Blood gases and pH determination;

(d) Microbiology;

- (e) Serum alcohol and toxicology determination; and  
 (f) Micro-technique.

~~((6) A level III pediatric trauma care hospital shall have:~~

~~(a) A physician directed burn unit staffed by nursing personnel trained in burn care, and equipped to care for the extensively burned pediatric patient; or~~

~~(b) Written transfer agreement with a burn center or hospital with burn unit.~~

~~(7) A level III pediatric trauma care hospital shall be able to manage acute head and/or spinal cord injuries, or have written transfer agreements with facility with such capabilities. Early transfer to an appropriate designated rehabilitation facility shall be considered.~~

~~(8) A level III pediatric trauma care hospital shall have routine radiological capabilities available within five minutes--))~~

- (9) Blood and blood component services, including:

(a) Blood and blood components available from in-house or through community services, to meet patient needs;

(b) Noncrossmatched blood available on patient arrival in the emergency department;

- (c) Blood typing and cross-matching;

(d) Policies and procedures for massive transfusion;

(e) Autotransfusions; and

(f) Blood storage capability;

(10) Radiological services, including a technician on-call and available within twenty minutes of notification, able to perform:

- (a) Routine radiological studies;

(b) Computerized tomography;

(11) Acute dialysis capability, or written transfer agreements;

(12) Written transfer guidelines in accordance with the guidelines of the American Burn Association, and transfer agreements for burn care;

(13)(a) Written transfer guidelines and agreements for patients with head or spinal cord injuries; or

(b) Have neurosurgery, with a neurosurgeon on-call and available within thirty minutes of request by the trauma team leader;

(c) Early transfer to an appropriate designated trauma rehabilitation service shall be considered;

(14) A ((level III pediatric trauma care hospital shall have a)) trauma rehabilitation coordinator to facilitate the pediatric trauma patient's access to ((a designated)) pediatric rehabilitation ((center and:)) services;

(15)(a) A ((physician directed)) designated pediatric trauma rehabilitation ((medicine)) service ((staffed by nursing personnel trained in pediatric rehabilitation, and equipped to care for pediatric trauma patients)); or

(b) Written agreements to transfer patients to a designated pediatric trauma rehabilitation service when medically feasible.

~~((10) A level III pediatric trauma care hospital shall have ancillary services, including clergy/pastoral care, and child protection services.~~

~~(11) A level III pediatric trauma care hospital shall have a heliport or landing zone located close enough to permit the facility to receive or transfer patients by air.))~~

(16)(a) A heli-stop, landing zone, or airport located close enough to permit the facility to receive or transfer patients by fixed-wing or rotary-wing aircraft; or

(b) Have a written policy and procedures addressing the receipt of patients by air, and transfer of patients to other designated trauma services by ground or air.

#### NEW SECTION

**WAC 246-976-822 Designation standards for facilities providing level III pediatric trauma care service—Trauma care education.** A facility with a designated level III trauma care service shall:

(1) Have a public education program addressing injury prevention;

(2) Make the facility available for initial and maintenance training of invasive manipulative skills for prehospital personnel.

**AMENDATORY SECTION** (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

**WAC 246-976-830 Designation standards for facilities providing level I trauma rehabilitation service((s)).** (1) Level I trauma rehabilitation services shall:

(a) Treat trauma inpatients and outpatients, regardless of disability or level of severity or complexity, who are ~~((over fifteen years of age))~~ fifteen years old or older. For adolescent trauma patients, the service shall consider whether educational goals, premorbid learning or developmental status, social or family needs and other factors indicate treatment in an adult or pediatric rehabilitation service;

(b) Have and retain ~~((one year or three year))~~ accreditation by the commission on accreditation of rehabilitation facilities (CARF) for hospital-based comprehensive inpatient rehabilitation, category one;

(i) Abeyance or deferral status from CARF do not qualify an applicant for designation;

(ii) If the applicant holds one-year accreditation, ~~((its))~~ the application for trauma care service designation shall include a copy of the CARF survey report and recommendations;

(c) House patients on a designated rehabilitation nursing unit;

(d) Provide a peer group for persons with similar disabilities;

(e) Be directed by a physiatrist who is in-house or on-call and responsible for rehabilitation concerns ~~((on a seven day a week, twenty four hour basis))~~ twenty-four hours every day;

(f) Have a diversion or transfer policy with protocols on an individual patient basis, based on ~~((its))~~ the ability to manage that patient at that time;

(g) In addition to the CARF medical consultative service requirements, have the following medical services in-house or on-call ~~((on a seven day a week, twenty four hour basis))~~ twenty-four hours every day:

(i) ~~((Anesthesia;~~

~~((ii) Pulmonary medicine; and~~

~~((iii) A radiologist;))~~ Anesthesiology, with an anesthesiologist or certified registered nurse anesthetist (CRNA); and

(ii) Radiology;

(h) Provide rehabilitation nursing personnel (~~on a seven day a week, twenty-four hour basis~~) twenty-four hours every day, with:

(i) Management by a registered nurse;  
 (ii) At least one certified rehabilitation registered nurse (CRRN) on duty each day and evening shift when (~~trauma patients are~~) a trauma patient is present;

(iii) (~~Adequate staffing to provide~~) A minimum of six clinical nursing care hours per patient day for each trauma patient(s);

(iv) The initial care plan and weekly update reviewed and approved by a CRRN; and

(v) An orientation and training program for all levels of rehabilitation nursing personnel;

(i) Provide the following (~~allied~~) health personnel and services (~~on a seven day a week, twenty-four hour basis~~) twenty-four hours every day:

(i) Access to pharmaceuticals, with a pharmacist (~~in house~~) on-call and available for consultation, with capability to have immediate access to patient and pharmacy data bases, within five minutes of notification;

(ii) Personnel trained in intermittent urinary catheterization; and

(iii) Respiratory therapy;

(j) Provide the following trauma rehabilitation services with staff who are licensed, registered, or certified, and who are in-house or (~~on-call~~) available for (~~daily~~) treatment every day when indicated in the rehabilitation plan:

(i) Occupational therapy;

(ii) Physical therapy;

(iii) Psychology, including:

(A) Neuropsychological services;

(B) Clinical psychological services, including testing and counseling; and

(C) Substance abuse counseling;

(iv) Social services;

(v) Speech/language pathology;

(k) Provide the following services in-house or through affiliation or consultative arrangements with staff who are licensed, registered, certified, or degreed:

(i) Communication augmentation;

(ii) Driver evaluation and training;

(iii) Orthotics;

(iv) Prosthetics;

(v) Rehabilitation engineering for device development and adaptations;

(vi) Therapeutic recreation; and

(vii) Vocational rehabilitation;

(l) Provide the following diagnostic services in-house or through affiliation or consultative arrangements with staff who are licensed, registered, certified, or degreed:

(i) Diagnostic imaging, including computerized tomography, magnetic resonance imaging, nuclear medicine, and radiology;

(ii) Electrophysiologic testing, to include:

(A) Electroencephalography;

(B) Electromyography;

(C) Evoked potentials;

(iii) Laboratory services; and

(iv) Urodynamic testing;

(m) Serve as a regional referral center for patients in their geographical area needing only level II or III rehabilitation care;

(n) Have an outreach program regarding trauma rehabilitation care, consisting of telephone and on-site consultations with physicians and other health care professionals in the community and outlying areas;

(o) Have a formal program of continuing trauma rehabilitation care education, both in-house and outreach, provided for nurses and allied health care professionals;

(p) (~~Conduct and disseminate research in rehabilitation of trauma patients~~) Have an ongoing structured program to conduct clinical studies, applied research, or analysis in rehabilitation of trauma patients, and report results within a peer review process.

(2) A level I trauma rehabilitation service shall (~~have a quality assurance program in accordance with WAC 246-976-880.~~

(3) ~~This section shall not restrict the authority of a rehabilitation service to provide services which it has been authorized to provide by state law, except as addressed by chapter 70.168 RCW~~);

(a) Have a quality assurance/improvement program in accordance with WAC 246-976-881;

(b) Participate in trauma registry activities as required in WAC 246-976-430;

(c) Participate in the regional trauma quality assurance program as required in WAC 246-976-910.

AMENDATORY SECTION (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

**WAC 246-976-840 Designation standards for facilities providing level II trauma rehabilitation service.**

(1) Level II trauma rehabilitation services shall:

(a) ~~Treat trauma inpatients and outpatients (~~based on delineated admission criteria that are based on diagnosis and severity of impairment, who are over fifteen years of age~~) with any disability or level of severity or complexity within the service's capabilities as defined in (c) of this subsection, who are fifteen years old or older;~~

(b) For adolescent trauma patients, the service shall consider whether educational goals, premorbid learning or developmental status, social or family needs, and other factors indicate treatment in an adult or pediatric rehabilitation service;

(c) Delineate criteria for admission based on diagnosis and severity of impairment;

(d) ~~Have and retain (~~one-year or three-year~~) accreditation by the commission on accreditation of rehabilitation facilities (CARF) for (~~hospital-based~~) comprehensive inpatient rehabilitation, category one or two;~~

(i) ~~Abeyance or deferral status do not qualify an applicant for designation;~~

(ii) ~~If the applicant holds one-year accreditation, (~~its~~) the application for trauma service designation shall include a copy of the CARF survey report and recommendations;~~

(~~e~~) (e) House patients on a designated rehabilitation nursing unit;

(~~f~~) (f) Provide a peer group for persons with similar disabilities;

~~((e))~~ (g) Be directed by a physiatrist who is ~~((in-house or on-call and))~~ responsible for rehabilitation concerns ~~((on a seven-day week, twenty-four hour basis))~~ twenty-four hours every day;

~~((f))~~ (h) Have a diversion or transfer policy with protocols on an individual patient basis, based on the ability to manage that patient at that time;

~~((g))~~ (i) In addition to the CARF medical consultative service requirements, provide the following medical services in-house or on-call ~~((on a seven-day a week, twenty-four hour basis))~~ twenty-four hours every day:

(i) ~~((Anesthesia;~~

~~((ii) Pulmonary medicine; and~~

~~((iii) A radiologist;~~

~~((h))~~ Anesthesiology, with an anesthesiologist or certified registered nurse anesthetist (CRNA); and

(ii) Radiology;

(j) Provide rehabilitation nursing personnel ((on a seven day a week, twenty-four hour basis)) twenty-four hours every day, with:

(i) Management by a registered nurse;

(ii) At least one certified rehabilitation registered nurse (CRRN) on duty one shift each day when ~~((trauma patients are))~~ a trauma patient is present;

(iii) ~~((Adequate staffing to provide))~~ A minimum of six clinical nursing care hours per patient day for each trauma patient((s));

(iv) The initial care plan and weekly update reviewed and approved by a CRRN; and

(v) An orientation and training program for all levels of rehabilitation nursing personnel;

~~((i) Provide appropriate access to pharmaceuticals on a seven day a week, twenty-four hour basis, with a pharmacist on-call and available within thirty minutes;~~

~~((j))~~ (k) Provide the following health personnel and services twenty-four hours every day:

(i) Access to pharmaceuticals, with a pharmacist on-call and available for consultation, with capability to have immediate access to patient and pharmacy data bases, within five minutes of notification;

(ii) Personnel trained in intermittent urinary catheterization; and

(iii) Respiratory therapy;

(l) Provide the following trauma rehabilitation services with staff who are licensed, registered, or certified, and who are in-house or ~~((on-call))~~ available for ~~((daily))~~ treatment every day when indicated in the rehabilitation plan:

(i) Occupational therapy;

(ii) Physical therapy;

(iii) Psychology, including:

(A) Neuropsychological services;

(B) Clinical psychological services, including testing and counseling;

(C) Substance abuse counseling;

(iv) Social services;

(v) Speech/language pathology;

~~((k))~~ (m) Provide the following services in-house or through affiliation or consultative arrangements with staff who are licensed, registered, certified, or degreed:

(i) Communication augmentation;

(ii) Driver evaluation and training;

(iii) Orthotics;

(iv) Prosthetics;

(v) Rehabilitation engineering for device development and adaptations;

(vi) Therapeutic recreation; and

(vii) Vocational rehabilitation;

~~((H))~~ (n) Provide the following diagnostic services in-house or through affiliation or consultative arrangements with staff who are licensed, registered, certified, or degreed:

(i) Diagnostic imaging, including computerized tomography, magnetic resonance imaging, nuclear medicine, and radiology;

(ii) Electrophysiologic testing, to include:

(A) Electroencephalography;

(B) Electromyography; and

(C) Evoked potentials;

(iii) Laboratory services;

(iv) Urodynamic testing;

~~((m))~~ (o) Have an outreach program regarding trauma rehabilitation care, consisting of telephone and on-site consultations with physicians and other health care professionals in the community and outlying areas;

~~((n))~~ (p) Have a formal program of continuing trauma rehabilitation care education, both in-house and outreach, provided for nurses and allied health care professionals.

(2) A level II trauma rehabilitation service shall ~~((have a quality assurance program in accordance with WAC 246-976-880.~~

~~((3) This section shall not restrict the authority of a rehabilitation service to provide services which it has been authorized to provide by state law, except as addressed by chapter 70.168 RCW);~~

(a) Have a quality assurance/improvement program in accordance with WAC 246-976-881;

(b) Participate in trauma registry activities as required in WAC 246-976-430;

(c) Participate in the regional trauma quality assurance program as required in WAC 246-976-910.

**AMENDATORY SECTION** (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

**WAC 246-976-850 Designation standards for level III trauma rehabilitation service.** (1) Level III trauma rehabilitation services shall:

(a) Provide a community based program of coordinated and integrated outpatient trauma rehabilitation services, evaluation, and treatment to those persons with trauma-related functional limitations ~~((that require services available in)), who do not need or no longer require comprehensive inpatient rehabilitation. Services may be provided in, but not limited to, the following settings:~~

(i) Freestanding outpatient rehabilitation centers;

(ii) Organized outpatient rehabilitation programs in acute hospital settings;

(iii) Day hospital programs; and

(iv) Other community settings;

(b) Treat patients according to admission criteria based on diagnosis and severity;

(c) Be directed by ~~((a physiatrist, or))~~ a physician with training and/or experience ~~((in rehabilitation, who participates in the quality assurance program))~~ necessary to provide

rehabilitative physician services, acquired through one of the following:

(i) Formal residency in physical medicine and rehabilitation;

(ii) A fellowship in rehabilitation for a minimum of one year; or

(iii) A minimum of two years' experience in providing rehabilitation services for patients typically seen in CARF-accredited comprehensive inpatient categories one, two, and three;

~~((Provide patient care under the direction of a psychiatrist or a physician with appropriate training and experience in physical medicine;~~

~~(e))~~ Provide the following trauma rehabilitation services by staff who are licensed, registered, or certified:

(i) Occupational therapy;

(ii) Physical therapy;

(iii) Social services;

(iv) Speech/language pathology;

~~((f))~~ (e) Provide or assist the patient to obtain the following as ~~((appropriate to))~~ define in the rehabilitation plan:

(i) Audiology;

(ii) Chaplaincy;

(iii) Dentistry;

(iv) Dietetics;

(v) Driver evaluation and training;

(vi) Education;

(vii) Nursing;

(viii) Orthotics;

(ix) Prosthetics;

(x) Psychology;

(xi) Rehabilitation engineering for device development and adaptations;

(xii) Respiratory therapy;

(xiii) Substance abuse counseling;

(xiv) Therapeutic recreation;

(xv) Vocational rehabilitation;

~~((g) Have an organized trauma rehabilitation quality assurance program with:~~

~~(i) A special audit process for rehabilitation trauma patients to identify the rehabilitation standards and indicators which monitor this program;~~

~~(ii) A multidisciplinary team, to include the physician identified as responsible for coordination of rehabilitation trauma activities;))~~

~~((This section shall not restrict the authority of a rehabilitation service to provide services which it has been authorized to provide by state law, except as addressed by chapter 70.168 RCW-))~~ A level III trauma rehabilitation service shall:

(a) Have a quality assurance/improvement program in accordance with WAC 246-976-881;

(b) Participate in trauma registry activities as required in WAC 246-976-430;

(c) Participate in the regional trauma quality assurance program established pursuant to WAC 246-976-910.

AMENDATORY SECTION (Amending WSR 93-20-063, filed 10/1/93, effective 11/1/93)

**WAC 246-976-860 Designation standards for facilities providing level I pediatric trauma rehabilitation service.** (1) Level I pediatric rehabilitation services shall:

(a) Treat inpatients and outpatients, regardless of disability or level of severity or complexity, who are ~~((fifteen years old or less;~~

~~(b) Treat inpatients and outpatients older than fifteen for whom educational goals or premorbid learning or developmental disability dictates treatment in a pediatric setting;~~

~~(c))~~;

(i) Under fifteen years old; or

(ii) For adolescent trauma patients, determine whether educational goals, premorbid learning or developmental status, social or family needs, or other factors indicate treatment in an adult or pediatric setting.

(b) Have and retain ((one year or three year)) accreditation by the commission on accreditation of rehabilitation facilities (CARF) for hospital-based comprehensive inpatient rehabilitation category one, including the additional designated pediatric program standards required to provide pediatric rehabilitative services;

(i) Abeyance or deferral status do not qualify an applicant for designation;

(ii) If the applicant holds one-year accreditation, ~~((its))~~ the application for trauma care service designation shall include a copy of the CARF survey report and recommendations;

~~((d))~~ (c) House patients in a designated pediatric rehabilitation area, providing a pediatric milieu;

~~((e))~~ (d) Provide a peer group for persons with similar disabilities;

~~((f))~~ (e) Be directed by a psychiatrist who is in-house or on-call and responsible for rehabilitation concerns ((on a seven day a week, twenty-four hour basis)) twenty-four hours every day;

~~((g))~~ (f) Have a diversion or transfer policy with protocols on an individual patient basis, based on ((its)) the ability to manage that patient at that time;

~~((h))~~ (g) In addition to the CARF medical consultative service requirements, have the following medical services in-house ((on a seven day a week, twenty-four hour basis)) or on-call twenty-four hours every day:

(i) ~~((Anesthesia;~~

~~(ii) Pediatrics;~~

~~(iii) Pulmonary medicine;~~

~~(iv) A radiologist;~~

(i) Anesthesiology, with an anesthesiologist or certified registered nurse anesthetist (CRNA);

(ii) A pediatrician;

(iii) Radiology;

(h) Provide rehabilitation nursing personnel ((on a seven day a week, twenty-four hour basis)) twenty-four hours every day, with:

(i) Management by a registered nurse;

(ii) At least one certified rehabilitation registered nurse (CRRN) on duty each day shift and evening shift when ~~((trauma patients are))~~ a trauma patient is present;

(iii) A minimum of six clinical nursing care hours per patient day for each trauma patient;

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(iv) All nursing personnel trained and/or experienced in pediatric rehabilitation;

~~((iv))~~ (v) The initial care plan and weekly update reviewed and approved by a CRRN; and

~~((v))~~ (vi) An orientation and training program for all levels of rehabilitation nursing personnel;

~~((j))~~ (i) Provide the following ~~((allied))~~ health personnel and services ~~((on a seven day week, twenty-four hour basis))~~ twenty-four hours every day:

(i) Access to pharmaceuticals, with pharmacist in house;

(ii) Personnel trained in intermittent urinary catheterization; and

(iii) Respiratory therapy;

~~((k))~~ (j) Provide the following trauma rehabilitation services with staff who are licensed, registered, or certified, who are trained and/or experienced in pediatric rehabilitation, and who are in-house or ~~((on-call))~~ available for ~~((daily))~~ treatment every day when indicated in the rehabilitation plan:

(i) Occupational therapy;

(ii) Physical therapy;

(iii) Psychology, including:

(A) Neuropsychological services;

(B) Clinical psychological services, including testing and counseling; and

(C) Substance abuse counseling;

(iv) Social services;

(v) Speech/language pathology;

~~((h))~~ (k) Provide the following diagnostic services in-house or through affiliation or consultative arrangements with staff who are licensed, registered, certified, or degreed:

(i) Communication augmentation;

(ii) Educational component of the program appropriate to the disability and developmental level of the child, to include educational screening, instruction, and discharge planning coordinated with the receiving school district;

(iii) Orthotics;

(iv) ~~((Appropriate))~~ Play space, with supervision by a pediatric therapeutic recreation specialist or child life specialist, to provide assessment and play activities;

(v) Prosthetics;

(vi) Rehabilitation engineering for device development and adaptations;

(vii) Therapeutic recreation;

~~((m))~~ (l) Provide the following diagnostic services in-house or through affiliation or consultative arrangements with staff who are licensed, registered, certified, or degreed:

(i) Electrophysiologic testing, to include:

(A) Electroencephalography;

(B) Electromyography;

(C) Evoked potentials;

(ii) Diagnostic imaging, including computerized tomography, magnetic resonance imaging, nuclear medicine, and radiology;

(iii) Laboratory services; and

(iv) Urodynamic testing;

~~((n))~~ (m) Have an outreach program regarding pediatric trauma rehabilitation care, consisting of telephone and on-site consultations with physicians and other health care professionals in the community and outlying areas;

~~((o))~~ (n) Have a formal program of continuing pediatric trauma rehabilitation care education, both in-house and

outreach, provided for nurses and allied health care professionals;

~~((p) Conduct and disseminate research in rehabilitation of pediatric trauma patients.)~~ (o) Have an ongoing structured program to conduct clinical studies, applied research or analysis in rehabilitation of pediatric trauma patients, and report results within a peer-review process.

(2) A level I pediatric rehabilitation service shall ~~((have a quality assurance program in accordance with WAC 246-976-880.~~

~~((3) This section shall not restrict the authority of a pediatric rehabilitation service to provide services which it has been authorized to provide by state law, except as addressed by chapter 70.168 RCW);~~

(a) Have a quality assurance/improvement program in accordance with WAC 246-976-881;

(b) Participate in trauma registry activities as required in WAC 246-976-430;

(c) Participate in the regional trauma quality assurance program as required in WAC 246-976-910.

### TRAUMA TEAM ACTIVATION, QUALITY ASSESSMENT, EDUCATIONAL REQUIREMENTS, AND TRANSFER GUIDELINES

#### NEW SECTION

**WAC 246-976-870 Trauma team activation.** (1) The purpose of trauma team activation is to assure all personnel and resources necessary for optimal care of the trauma patient are available when the patient arrives in the emergency department. To assure optimal patient care:

(a) Patient status shall be reported from the field by prehospital providers to the emergency department in the receiving trauma care service;

(i) It is the responsibility of the prehospital providers to determine all relevant information and report it to the receiving facility;

(ii) It is the responsibility of the receiving facility to request any relevant information that is not volunteered by the prehospital providers.

(b) The service shall use the prehospital information to determine activation of a trauma team and/or resources appropriate for the care of the patient.

(c) The presence of the general surgeon, when included in the service's scope of practice, is necessary both to exercise his or her professional judgment that immediate surgery is not indicated, as well as to perform surgery when it is indicated, and to direct resuscitation and patient transfer if necessary.

(2) Each designated trauma care service shall use an approved method to determine activation of its trauma team. The method shall include information obtained from prehospital providers and other sources appropriate to the circumstances.

(a) The method shall use notification by a prehospital provider that the patient meets trauma patient triage criteria, as defined in WAC 246-976-370; and

(b) A scoring system such as the Prehospital Index, or patient-based criteria, which includes evaluation of each patient's:

(i) Vital signs and level of consciousness;



- (ii) Anatomy of injury, including evaluation;
  - (iii) Mechanism of injury; and
  - (iv) Comorbid factors.
- (c) If a methodology is used for modified trauma team response, it shall:

- (i) Provide a mechanism to upgrade the level of trauma team response based on newly acquired information; and
  - (ii) Be approved by the department.
- (d) The method may include a response by a neurosurgeon in place of response by a general surgeon when, based on prehospital information, the mechanism of injury clearly indicates isolated penetrating trauma to the brain.

#### NEW SECTION

**WAC 246-976-881 Trauma quality assurance programs for designated trauma care services.** (1) All designated levels I - V and pediatric levels I - III trauma care services shall have a quality assessment and improvement program that reflects and demonstrates a process for continuous quality improvement in the delivery of trauma care, with:

- (a) An organizational structure that facilitates the process of quality assurance and improvement and identifies the authority to change policies, procedures, and protocols that address the care of the trauma patient;
  - (b) Participation of members of the trauma team;
  - (c) Developments of standards of quality care;
  - (d) A process for monitoring compliance with or adherence to the standards;
  - (e) A process of peer review to evaluate specific cases or problems identified by the monitoring process;
  - (f) A process for correcting problems or deficiencies;
  - (g) A process to analyze and evaluate the effect of corrective action;
  - (h) A process to insure that confidentiality of patient and provider information is maintained according to the standards of RCW 70.41.200 and 70.168.090.
- (2) Designated levels I and II trauma rehabilitation services and level I pediatric trauma rehabilitation services shall have a quality assessment and improvement program that reflects and demonstrates a process for continuous quality improvement in the delivery of trauma care, with:
- (a) An organizational structure and plan that facilitates the process of quality assurance and improvement and identified the authority to change policies, procedures, and protocols that address the care of the major trauma patient;
  - (b) Participation of members of the multidisciplinary trauma rehabilitation team, including involvement of the trauma rehabilitation coordinator of the referring acute trauma care service;
  - (c) Development of outcome standards;
  - (d) A process for monitoring compliance with or adherence to the outcome standards;
  - (e) A process of internal peer review to evaluate specific cases or problems identified by the outcome monitoring process;
  - (f) A process for implementing corrective action to address problems or deficiencies;
  - (g) A process to analyze and evaluate the effect of corrective action;

(h) A process to insure that confidentiality of patient and provider information is maintained according to the standards of RCW 70.41.200 and 70.168.090.

(3) A designated level III trauma rehabilitation service shall have an organized trauma rehabilitation quality assessment and improvement program that reflects and demonstrates a process for continuous quality improvement in the delivery of trauma care, with:

- (a) A special audit process for rehabilitation trauma patients to identify the trauma rehabilitation outcome standards and indicators which monitor this program;
- (b) A multidisciplinary team, to include the physician identified as responsible for coordination of rehabilitation trauma activities;
- (c) A process to insure that confidentiality of patient and provider information is maintained according to the standards of RCW 70.41.200 and 70.168.090.

AMENDATORY SECTION (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-885 Educational (~~and certification~~) requirements—Designated trauma care service personnel.** (1) To allow for timely and orderly establishment of the trauma system, the department shall consider that education (~~and/or certification~~) requirements established in this chapter for (~~physicians in the ED, and for nursing personnel in all units of~~) all personnel caring for trauma patients in a designated trauma care (~~facility~~) service, have been met if:

(~~(1) Until July 1, 1994~~) (a) At the time of initial designation, twenty-five percent of all personnel (~~caring for trauma patients meet the educational and certification requirements of this chapter at the time of designation~~) meet the education and training requirements defined in this chapter;

(~~(2) By July 1, 1995~~) (b) At the end of the first year of designation, fifty percent of all personnel (~~caring for trauma patients meet the educational and certification requirements of~~) meet the education and training requirements defined in this chapter;

(~~(3) By July 1, 1996~~) (c) At the end of the second year of designation, seventy-five percent of all personnel (~~caring for trauma patients meet the educational and certification requirements of~~) meet the education and training requirements defined in this chapter;

(~~(4) By July 1, 1997~~) (d) At the end of the third year of designation, and in all subsequent designation periods, ninety percent of all personnel (~~caring for trauma patients meet the educational or certification requirements of~~) meet the education and training requirements defined in this chapter.

(2) To meet the requirements for a trauma life support course:

(a) Emergency department registered nurses in levels I, II, III and IV trauma care services, and in levels I, II, and III pediatric trauma care services, shall have successfully completed a trauma nurse core course (TNCC), or a department-approved equivalent that includes a minimum of sixteen contact hours of trauma-specific education on the following topics:

- (i) Mechanism of injury;
- (ii) Shock and fluid resuscitation;

(iii) Initial assessment;

(iv) Pediatric trauma;

(v) Stabilization and transport;

(b) Registered nurses in critical care units in level I or II trauma care services shall have successfully completed a minimum of eight contact hours of trauma-specific education;

(c) Registered nurses in critical care units in level III trauma care services shall have successfully completed a minimum of four contact hours of trauma-specific education;

(d) For level IV services, if the service's scope of care defined in WAC 246-976-640(2) includes critical care for trauma patients, registered nurses in critical care units shall have successfully completed a minimum of four contact hours of trauma-specific education.

**AMENDATORY SECTION** (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-890 Interhospital transfer guidelines and agreements.** ~~((+))~~ ~~Facilities providing designated trauma care services shall ((have written transfer agreements for the identification and transfer of patients with special care needs who meet interhospital transfer criteria-)):~~

(1) Have written guidelines for the identification and transfer of patients with special trauma care needs exceeding the capabilities of the trauma care service.

(2) Have written transfer agreements ((shall)) with other designated trauma care services which include the responsibility of the transferring hospital and of the receiving hospital, and ((shall assign)) a mechanism for assignment of medical control during interhospital transfer.

(3) ((Transferring facilities shall)) Have written guidelines to identify trauma patients who are transferred in from other facilities, whether admitted through the emergency department or directly into other hospital services.

(4) Use verified prehospital trauma services for interfacility transfer of trauma patients.

#### **REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 246-976-470	Trauma care facilities— Designation process.
WAC 246-976-475	On-site review for designation.
WAC 246-976-480	Denial, revocation, or suspension of designation.
WAC 246-976-880	Trauma quality assurance programs for designated trauma care hospitals.

#### **WSR 98-04-052**

#### **PERMANENT RULES**

#### **WASHINGTON STATE PATROL**

[Filed January 30, 1998, 3:38 p.m.]

Date of Adoption: December 1, 1997.

Purpose: To amend sections to comply with modern technology and vehicle equipment RCWs.

Citation of Existing Rules Affected by this Order: Amending WAC 204-90-030, 204-90-040, 204-90-070, 204-90-120, and 204-90-140.

Statutory Authority for Adoption: RCW 46.37.005 and 46.37.320.

Adopted under notice filed as WSR 97-21-021 on October 7, 1997.

Changes Other than Editing from Proposed to Adopted Version: Language regarding fenders will remain in WAC 204-90-040(7); allowable body lifts defined in WAC 204-90-120.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 5, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 5, 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 5, 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.

January 29, 1998

Annette M. Sandberg  
Chief

**AMENDATORY SECTION** (Amending Order 87-03-ESR, filed 12/8/87)

**WAC 204-90-030 Definitions.** (1) Special motor vehicles: Passenger vehicles, multipurpose passenger vehicles, trucks and buses with a gross vehicle weight rating of 10,000 pounds or less equipped with two or more axles having at least two wheels per axle and which are intended for use on public highways. The term "special motor vehicle" shall include the following types:

(a) Type I: Vehicles that retain or are exact replicas of the original body configuration of a recognized vehicle manufacturer with changes made to any of the equipment items specified in this chapter. This type shall also include vehicles that have been modified from a recognized vehicle manufacturer's original body chassis configuration but that retain the general appearance of the original body chassis.

(b) Type II: All special motor vehicles which are custom built with fabricated parts or parts taken from existing vehicles excluding Type I vehicles.

(c) Enclosed vehicle: Every Type I and Type II vehicle having a solid enclosed compartment for occupants as compared to an open or "soft top" convertible vehicle.

(2) Recognized manufacturer: A person, firm, co-partnership, association, or corporation who is or has engaged in the business of manufacturing motor vehicles intended for use on the public highways and offered for sale in interstate commerce.

(3) FMVSS: Federal Motor Vehicle Safety Standard.

Notwithstanding any other provisions of law, a vehicle or exact replica of a vehicle (~~more than thirty years old~~) manufactured prior to 1968 owned and operated primarily as a collectors item and which has been restored to the original configuration and specifications of a recognized manufacturer is exempted from the requirements of this chapter.

**AMENDATORY SECTION** (Amending WSR 97-04-055, filed 2/3/97, effective 3/6/97)

**WAC 204-90-040 Body requirements.** (1) Defroster and defogging devices: Every enclosed special motor vehicle shall be equipped with a device capable of defogging and defrosting the windshield area. Vehicles or exact replicas of vehicles manufactured prior to January, 1938, are exempt from this requirement.

(2) Door latches: Every enclosed special motor vehicle equipped with side doors leading directly into a compartment that contains one or more seating accommodations shall be equipped with door latches which firmly and automatically secure the door when pushed closed and which allow each door to be opened both from the inside and outside.

(3) Hoodlatches: A front opening hood shall be equipped with a primary and a secondary latching system to hold the hood in a closed position.

Hoods are optional equipment on vehicles defined as street rods and kit vehicles by the Washington state patrol vehicle inspectors.

(4) Enclosed passenger compartment: A special motor vehicle with an enclosed passenger compartment and powered by an internal combustion engine shall be constructed to prevent the entry of exhaust fumes into the passenger compartment.

(5) Floor pan: A special motor vehicle shall be equipped with a floor pan under the entire passenger compartment capable of supporting the weight of the number of occupants that the vehicle is designed to carry.

(6) Bumpers: A special motor vehicle shall be equipped with a bumper on both the front and rear of the vehicle with the exception of motor vehicles where the original or predominant body configuration, provided by a recognized manufacturer, did not include such bumper or bumpers in the design of the vehicle. (~~Bumpers or exact replicas of bumpers for Type I vehicles meeting the original specifications of a recognized manufacturer shall satisfy the requirements of this section.~~) For the relevant model year, bumpers must accommodate recognized manufacturer impact absorption systems per applicable Society of Automotive Engineers (SAE) Bumper Standards or equivalent standards.

Bumpers are optional equipment on vehicles defined as street rods and kit vehicles by the Washington state patrol vehicle inspectors.

Bumpers, unless specifically exempted above, shall be at least 4.5 inches in vertical height, centered on the vehicle's centerline, and extend no less than the width of the respective wheel track distances. Bumpers shall be attached to the vehicle in a manner equivalent to the original manufacturer's installation. Bumpers shall be horizontal load bearing and attach to the vehicle frame to effectively transfer energy when impacted.

The maximum bumper heights will be determined by weight category of gross vehicle weight rating (GVWR)

measured from a level surface to the highest point on the bottom of the bumper. For vehicles exempted from the bumper requirement for the reasons stated above, a maximum frame elevation measurement shall be made to the bottom of the frame rail. Maximum heights are as follows:

	Front	Back
Passenger Vehicles	22 Inches	22 Inches
4,500 lbs. and under GVWR	24 Inches	26 Inches
4,501 lbs. to 7,500 lbs. GVWR	27 Inches	29 Inches
7,501 lbs. to 10,000 lbs. GVWR	28 Inches	30 Inches

Adding an additional bumper will not meet the above requirements.

(7) Fenders: All wheels of a special motor vehicle shall be equipped with fenders designed to cover the entire tire tread width that comes in contact with the road surface. Coverage of the tire tread circumference shall be from at least 15° in front and to at least 75° to the rear of the vertical centerline at each wheel measured from the center of the wheel rotation. At no time shall the tire come in contact with the body, fender, chassis, or suspension of the vehicle. Street rods and kit vehicles which are more than forty years old and are owned and operated primarily as a collector's item need not be equipped with fenders when the vehicle is used and driven during fair weather on well-maintained, hard-surfaced roads.

(8) Frame: A special motor vehicle shall be equipped with a frame. If an existing frame from a recognized manufacturer is not used and a special frame is fabricated, it shall be constructed of wall box or continuous section tubing, wall channel, or unitized construction capable of supporting the vehicle, its load, and the torque produced by the power source under all conditions of operation.

**AMENDATORY SECTION** (Amending Order 83-05-01, filed 5/13/83)

**WAC 204-90-070 Rear view mirror.** A special motor vehicle shall be equipped with (~~at least two rear view mirrors each having substantial unit magnification. One shall be mounted on the inside of the vehicle in such a position that it affords the driver a clear view at least two hundred feet to the rear. The other shall be mounted on the outside of the vehicle, on the driver's side, in such a position that it affords the driver a clear view to the rear. When an inside mirror does not give a clear view to the rear, an outside mirror meeting the requirements of this section shall be required on each side.~~) a mirror mounted on the left side of the vehicle and so located to reflect to the driver a clear view of the highway for a distance of at least two hundred feet to the rear. A special motor vehicle shall be equipped with an additional mirror mounted either inside the vehicle approximately in the center or outside the vehicle on the right side and so located as to reflect to the driver a clear view of the highway for a distance of at least two hundred feet to the rear of the vehicle. The mirror mountings shall provide for mirror adjustment by tilting both horizontally and vertically.

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**AMENDATORY SECTION** (Amending Order 83-05-01, filed 5/13/83)

**WAC 204-90-120 Suspension.** The ground clearance for a special motor vehicle shall be such that the vehicle shall be able to be in motion on its four rims on a flat surface with no other parts of the vehicle touching that surface. Maximum ground clearance for a special motor vehicle shall be determined using the table contained in WAC 204-90-040(6) Bumpers.

The spring mounts and shackles shall be properly aligned and of sufficient strength so as to support the gross weight of the vehicle and provide free travel in an up and down movement under all conditions of operation. Rear coil spring suspension systems shall incorporate anti-sway devices to control lateral movement.

A special motor vehicle shall have a suspension system that allows movement between the unsprung axles and wheels and the chassis body and shall be equipped with a damping device at each wheel location. The suspension system shall be capable of providing a minimum relative motion of plus and minus 2 inches. When any corner of the vehicle is depressed and released, the damping device shall stop vertical body motion within two cycles.

There shall be no heating or welding of coil springs, leaf springs, or torsion bars.

No special motor vehicle shall be constructed or loaded so that the weight on the wheels of any axle is less than 30% of the gross weight of the vehicle. No hydraulic system shall be activated while the vehicle is being operated on public roadways.

A special motor vehicle shall be capable of stable, controlled operation while traversing a slalom-type path passing alternately to the left and right of at least four cones or markers arranged in a straight line and spaced 60 feet apart at a minimum speed of 25 MPH. Body lifts are permitted provided that they are manufactured by an after market manufacturer, designed for the make and model vehicle on which they are installed, and installed according to the manufacturer's recommendations. Body lifts may not use more than a three inch spacer and may not raise the body more than four inches above the frame when all components are installed.

**AMENDATORY SECTION** (Amending Order 83-05-01, filed 5/13/83)**WAC 204-90-140 Electrical system requirements.**

NOTE: The lamps on special motor vehicles shall comply with standards contained in chapter 204-72 WAC.

(1) Dimmer switch: The headlamp circuit shall be equipped with a driver-controlled high and low beam selector switch unless the vehicle is equipped with single beam headlamps.

(2) Hazard warning switch: A Type II special motor vehicle shall be equipped with a hazard warning switch causing all turn signal lamps to flash simultaneously.

(3) Headlamp switch: The headlamp switch shall activate the headlamps, tail lamps, license plate lamp, and when required, marker lamps simultaneously.

(4) Headlamp system: Aftermarket headlamps shall be white only. A special motor vehicle shall be equipped with two headlamp units or two pairs of headlamp units mounted

at the same height, equidistant of each side of the vertical centerline, and as far apart as practical. Headlamp systems shall conform to the requirements of chapter 46.37 RCW. The headlamps shall be mounted on the front forward of the windshield in a plane through the longitudinal centerline of the vertical. The headlamps shall be mounted not less than 24 inches nor more than 54 inches (72 inches for trucks) above the road surface when measured to the headlamp center. Lamp sub-body(ies) shall be constructed with adequate adjustments to afford proper aiming of the headlamp(s) in compliance with chapter 204-72 WAC. Alternative headlamp systems shall comply with FMVSS 108.

(5) High beam indicator: An indicator shall be provided which indicates to the driver when the high beams of the headlamp system are energized. The indicator shall emit a light other than white plainly visible to the driver under normal driving conditions.

(6) Horn: A special motor vehicle shall be equipped with an operable horn capable of emitting sound audible under normal conditions from a distance of not less than 200 feet. No horn or other warning device shall emit an unreasonably loud or harsh sound or whistle nor shall a bell or siren be used as a warning device. The device used to actuate the horn shall be easily accessible to the driver when operating the vehicle.

(7) License plate lamp: At least one white lamp shall be provided at the rear license plate which clearly illuminates the license plate to a distance of 50 feet.

(8) A special motor vehicle, if equipped with an automatic transmission, shall be equipped with a safety switch that prevents the starter motor from being actuated except when the gear selector is in the neutral or park position.

(9) Parking lamps: Two white to yellow (amber) parking lamps, in compliance with FMVSS 108, shall be mounted on the front, one on each side and equidistant from the vertical centerline, at the same height, and as far apart as practical. The parking lamps shall be mounted not less than 15 inches nor more than 72 inches above the roadway. Type I vehicles not originally equipped with parking lamps are exempt from this requirement.

(10) Reflex reflectors: Two red Class A reflectors, in compliance with FMVSS 108, shall be mounted on the rear, symmetrically disposed about the vertical centerline. The reflex reflectors shall be mounted not less than 15 inches nor more than 72 inches above the roadway.

(11) Stop lamps: Two red stop lamps, in compliance with FMVSS 108, shall be mounted on the rear, one on each side equidistant from the vertical centerline of the vehicle, at the same height, and as far apart as practical. The stop lamps shall be mounted not less than 15 inches nor more than 72 inches above the roadway. Type I vehicles, which were originally equipped with only one stop lamp, need not be equipped with two lamps, providing the lamp is located in accordance with the original design configuration.

(12) Tail lamp system: Two red lamps, in compliance with FMVSS 108, shall be mounted on the rear, one on each side equidistant from the vertical centerline, at the same height, and as far apart as practical. The tail lamps shall be mounted not less than 15 inches nor more than 72 inches above the roadway. Type I vehicles, which were originally

equipped with only one tail lamp, need not be equipped with two tail lamps providing the original lamp is located in accordance with the original design configuration.

(13) Turn signal lamps (combination lighting devices are acceptable.): Two Class A red or yellow (amber) turn signal lamps and two Class A yellow (amber) turn signal lamps, in compliance with FMVSS 108, shall be mounted as follows: At or near the front, one yellow (amber) lamp on each side equidistant from the vertical centerline, at the same height, and as far apart as practical. On the rear, one red or yellow (amber) lamp on each side equidistant from the vertical centerline, at the same height, and as far apart as practical. All turn signal lamps shall be mounted not less than 15 inches nor more than 83 inches above the roadway. Type I vehicles are exempt from turn signal requirements if not originally equipped.

(14) Turn signal switch: A special motor vehicle (if equipped with turn signals) shall be equipped with a switch controlled by the operator of the vehicle which shall cause the turn signal lamps to function. The switch shall be self-cancelling and capable of cancellation by a manually-operated control.

(15) Turn signal indicator: If the front signal lamp(s) are not readily visible to the driver, there shall be an illumination indicator to give the operator a clear, unmistakable indication that the turn signal system is on. The illumination indicator shall consist of one or more bright lights flashing at the same frequency as the signal lamps, and it shall emit a light other than white.

(16) Aftermarket neon lighting devices may not be used on motor vehicles while they are in motion on public roadways.

**WSR 98-04-053**  
**PERMANENT RULES**  
**WASHINGTON STATE PATROL**

[Filed January 30, 1998, 3:40 p.m.]

Date of Adoption: December 16, 1997.

Purpose: Amending sections to clarify what can and cannot be used for motor vehicle aftermarket lighting devices. Also repeals sections which are covered in other WACs.

Citation of Existing Rules Affected by this Order: Repealing WAC 204-10-100, 204-10-110, 204-10-130, 204-10-140 and 204-10-150; and amending WAC 204-10-020, 204-10-070, and 204-10-090.

Statutory Authority for Adoption: RCW 46.37.005 and 46.37.320.

Adopted under notice filed as WSR 97-22-040 on October 31, 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 3, repealed 5.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 3, repealed 5.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 29, 1998

Annette M. Sandberg  
Chief

AMENDATORY SECTION (Amending Order 83-05-01, filed 5/13/83)

WAC 204-10-020 Lighting devices. Aftermarket neon lighting devices may not be used on motor vehicles while they are in motion on public roadways.

(1) Federal Motor Vehicle Safety Standard 108 is hereby adopted by reference as the standard for the following aftermarket lighting devices:

(a) Headlamps (shall be white only) (SAE J578)

(b) Taillamps

(c) Stoplamps

(d) License plate lamps

(e) Turn signal lamps

(f) Side marker lamps

(g) Intermediate side marker lamps

(h) Backup lamps

(i) Identification lamps

(j) Clearance lamps

(k) Parking lamps

(l) Reflex reflectors

(m) Intermediate reflex reflectors

(n) Intermediate side reflex reflectors

(o) Intermediate side marker reflectors

(p) Turn signal operating units

(q) Turn signal flashers

(r) Vehicular hazard warning signal operating units

(s) Vehicular hazard warning signal flashers

(2) Canadian Standards Association Standard D106.2 is hereby adopted by reference as the standard for the following lighting devices:

(a) Aftermarket headlamps (quartz-halogen nonsealed beam - shall be white only).

(i) Motorcycle headlamps may comply with either Federal Motor Vehicle Safety Standard 108 or Canadian Standard D106.2.

(b) Fog lamps. Fog lamps may comply with either Standard D106.2 or SAE Standard J583((♠)) as set forth in subsection (3)(a) of this section.

(3) Society of Automotive Engineers standards are hereby adopted by reference as the standard for the following lighting devices:

(a) Fog lamps (SAE J583((♠))), aftermarket fog lamps shall be white to amber only

(b) Fog tail lamps (SAE ((X))J1319)

(c) Auxiliary driving lamps (SAE J581((♠))), shall be white only and are not intended to be used alone or with the lower beam of a standard headlamp system

(d) Auxiliary low beam lamps (or auxiliary passing lamps) (SAE J582((♠)))

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- (e) Spot lamps (SAE J591((b)))
  - (f) Cornering lamps (SAE J852((b)))
  - (g) Supplemental high-mounted stop and rear turn signal lamps (SAE ((H86a)) J1957 and J2068)
  - (h) Side turn signal lamps (SAE J914((b)))
  - (i) 360 degree emergency warning lamps (SAE J845)
  - (j) Flashing warning lamps for agricultural equipment (SAE J974)
  - (k) Flashing warning lamps for authorized emergency, maintenance, and service vehicles (SAE J595((b)))
  - (l) Flashing warning lamp for industrial equipment (SAE J96)
  - (m) Warning lamp alternating flashers (J1054)
  - (n) Green lamp for use on volunteer fireman's private vehicle (SAE J595((b))) - flashing warning lamps for authorized emergency, maintenance, and service vehicles.
  - (i) Color of the lens shall be green as that color is described in SAE Standard J578((d)) (Color specifications for electric signal lighting devices) rather than red or amber as specified in SAE J595((b)).
  - (o) Side cowl, fender, or running board courtesy lamps (SAE J575((g)))
- (4) Standards promulgated by the commission on equipment for the following lighting devices shall be as set forth in the Washington Administrative Code chapters as indicated:
- (a) Deceleration alert lamp system (chapter 204-62 WAC)
  - (b) Headlamp modulator (chapter 204-78 WAC)
  - (c) Headlamp flashing system (chapter 204-80 WAC)
  - (d) School bus warning lamps (chapter 204-74 WAC).

AMENDATORY SECTION (Amending Order 81-08-02, filed 8/21/81)

**WAC 204-10-070 Air conditioning units.** (1) Society of Automotive Engineers Recommended Practice SAE J639 is hereby adopted by reference as the standard for automotive air conditioning units.

(2) Society of Automotive Engineers Standard SAE J51((b)) is hereby adopted by reference as the standard for automotive air conditioning hose.

AMENDATORY SECTION (Amending Order 81-08-02, filed 8/21/81)

**WAC 204-10-090 Slow moving vehicle emblems.** Society of Automotive Engineers Standard SAE J943((a)) is hereby adopted by reference as the standard for slow moving vehicle identification emblems. Mounting of the emblem shall be as set forth in chapter 204-28 WAC.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- |                |  |
|----------------|--|
| WAC 204-10-100 | Tire chains.                                   |
| WAC 204-10-110 | Traction devices.                              |
| WAC 204-10-130 | Trailer hitches.                               |
| WAC 204-10-140 | Motorcycle goggles, glasses, and face shields. |
| WAC 204-10-150 | Load fastening devices.                        |

**WSR 98-04-054**  
**PERMANENT RULES**  
**WASHINGTON STATE PATROL**  
[Filed January 30, 1998, 3:41 p.m.]

Date of Adoption: December 30, 1997.

Purpose: To amend sections to outline what can and cannot be used for motor vehicle aftermarket lighting devices.

Citation of Existing Rules Affected by this Order: Amending WAC 204-72-030 and 204-72-040.

Statutory Authority for Adoption: RCW 46.37.005 and 46.37.320.

Adopted under notice filed as WSR 97-23-072 on November 19, 1997.

Changes Other than Editing from Proposed to Adopted Version: Exemption made in WAC 204-72-040 for clear aftermarket headlamp covers.

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 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.

January 29, 1998

Annette M. Sandberg  
Chief

AMENDATORY SECTION (Amending Order 80-12-01, filed 12/5/80)

**WAC 204-72-030 Mounting requirements, general.**

(1) Installation and maintenance. Lighting equipment shall be securely mounted on a rigid part of the vehicle to prevent noticeable vibration of the beam and shall be maintained with the proper aim when the vehicle is stationary and in motion. No lighting device shall be mounted so any portion on the vehicle, load, or vehicle equipment interferes with the distribution of light or decreases its intensity within the photometric test angles unless an additional device is installed so the combination of the two meets these requirements. Mounting heights shall be measured from the center of the lamp or reflector to the level surface upon which the vehicle stands when it is without load.

(2) Mounting of aftermarket devices. Aftermarket lamps, with orientation markings such as "top" shall be mounted in accordance with the markings. Sealed and semisealed optical units shall be installed with the lettering on the lens face right side up. Front and rear reflex reflectors shall be securely mounted on a rigid part of the vehicle with the plane of the lens perpendicular to the roadway and parallel to the rear axle. Side reflex reflectors shall be

mounted with the lens face perpendicular to the roadway and parallel to the rear wheels. Aftermarket neon lighting devices are not allowed to be used on a motor vehicle while driving on the public roadways.

(3) Mounting of original equipment devices. Original equipment lamps and reflex reflectors designed for a particular make of vehicle and installed on another vehicle shall be mounted at the same angle as on the vehicle for which they were designed. They need not be mounted at the same height or lateral spacing as on the original vehicle but must comply with the appropriate height and location limitations in this chapter and chapter 46.37 RCW.

**AMENDATORY SECTION** (Amending WSR 97-12-061, filed 6/3/97, effective 7/4/97)

**WAC 204-72-040 Mounting requirements, specific.** Pursuant to the National Highway Traffic Safety Administration Standard 108, no aftermarket styling ornament or other feature, such as tinted plastic or glass covers, a grille or slotted covers shall be in front of the headlamp lens, or in front of any other lighting devices installed on motor vehicles, except for headlamp concealment devices meeting the requirements of FMVSS 112. Clear aftermarket headlamp covers are exempt from this section.

(1) Clearance, sidemarker, and identification lamps.

(a) Clearance lamps, sidemarker lamps, and combination clearance and sidemarker lamps shall be mounted as specified in FMVSS 108, except for combination clearance and sidemarker lamps on pole trailers which shall be mounted as required by RCW 46.37.090 (5)(c). On vehicles manufactured prior to May 1, 1980, clearance lamps need not be visible at the inboard angles, and clearance and sidemarker lamps need not comply with the mounting height requirements of FMVSS 108.

(b) Identification lamps shall be mounted as specified in FMVSS 108, except where the cab of a vehicle is not more than 42 inches wide at the front roof line a single identification lamp shall be deemed to comply with the requirements for front identification lamps.

(c) Specialized lamps. Specialized combination lamps designed to be mounted with the base at angles other than 0, 45, or 90 degrees from the longitudinal axis of the vehicle shall be installed in accordance with the manufacturer's instructions.

(2) Cornering lamps. Cornering lamps shall be mounted on the front of the vehicle near the side or the side near the front and not lower than 12 inches nor higher than 30 inches.

(3) Deceleration lamps. Deceleration lamps shall be mounted on the rear of the vehicle on or adjacent to the centerline of the vehicle at a height not lower than 20 inches and not higher than 72 inches.

(4) Fog lamps. A fog lamp is a lighting device mounted to provide illumination forward of the vehicle under conditions of rain, snow, dust, or fog. Fog lamps shall be mounted at a height of not less than 12 inches nor more than 30 inches, and so that the inner edge of the lens retaining ring is no closer than 4 inches to the optical center of the front turn signal lamp. The fog lamp(s) may be used only with the low beam headlamps. Fog lamps shall not be used alone in lieu of headlamps.

(5) Headlamps. Headlamps shall be mounted as specified in FMVSS 108 and as follows:

(a) Spacing. Headlamp units installed after November 15, 1975, shall not be closer to the centerline of the vehicle than 12 inches measured from the center of the lens, except on motorcycles and motorized bicycles, and shall be spaced as far apart as practicable. In cases of customized headlamp installation, headlamps shall not be mounted closer together than at the time of original manufacture of the vehicle body.

(b) Height. Headlamps shall be mounted at a height of not less than 24 inches nor more than 54 inches.

~~((c) Covers. No grille, plastic or glass covers, or any other obstruction which distorts the color or the distribution of light or substantially decreases its intensity shall be in front of the headlamp lens, except for headlamp concealment devices meeting the requirements of FMVSS 112.))~~

(6) Auxiliary passing lamps. A passing lamp is an auxiliary low beam lamp meeting the photometric requirements of SAE Standard J582a. Passing lamps shall be mounted not lower than 24 inches nor higher than 42 inches, and so the inner edge of the lens retaining ring is no closer than 4 inches to the optical center of the front turn signal lamp. The lamp may be used at the driver's discretion with either low or high beam headlamps. Passing lamps shall not be used alone in lieu of headlamps.

(7) Auxiliary driving lamps. A driving lamp is a lighting device mounted to provide illumination forward of the vehicle to supplement the upper beam of a standard headlamp system. Driving lamps shall be mounted on the front not lower than 16 inches nor higher than 42 inches. Driving lamps shall be wired so that the taillights are lighted whenever the driving lamps are lighted. If driving lamps are not wired to operate only with headlamp high beams, then a separate switch and indicator lamp shall be provided to operate the driving lamps. Driving lamps shall not be used alone in lieu of headlamps.

(8) Side turn signal lamps. Side turn signal lamps shall be mounted on the side not lower than 20 inches nor higher than 72 inches. The lamps shall flash with the front and rear turn signal lamps on their respective sides of the vehicle. On vehicles equipped with sequential turn signal lamps, the side turn signal lamps shall flash with the front turn signal lamps. If the side turn signal lamps flash when the hazard warning switch is actuated, all such lamps shall flash with the rear turn signal lamps.

(9) Supplemental signal lamps. Supplemental stop or turn signal lamps shall be single-faced, shall be actuated in the same manner and at the same time as the required stoplamps or turn signal lamps, and shall not be used in lieu of such lamps. Supplemental turn signal lamps and supplemental combination stop-and-turn signal lamps shall be mounted in pairs facing the rear with one lamp near each side of the vehicle, at the same height and equally spaced from the vehicle centerline. Supplemental stoplamps shall be mounted in pairs as specified above or with not more than two lamps on or adjacent to the centerline of the vehicle. Supplemental stop or turn signal lamps shall be mounted not lower than 35 inches nor higher than 55 inches. Standard stop or turn signal lamps not combined with tail lamps or reflex reflectors may be used respectively as supplemental lamps in which case they shall be mounted at

any height not lower than 15 inches nor higher than 72 inches.

(10) Turn signal lamps. Turn signal lamps shall be mounted and operated as follows:

(a) Motor vehicles. Turn signal systems on motor vehicles shall consist of at least two single-faced or double-faced turn signal lamps on or near the front and at least two single-faced turn signal lamps on the rear. Double-faced turn lamps shall be mounted ahead of the center of the steering wheel or the center of the outside rearview mirror, whichever is rearmost. A truck-tractor or a truck chassis without body or load may be equipped with one double-faced turn signal lamp on each side in lieu of the four separate lamps otherwise required on a motor vehicle. Front and rear turn signal lamps on motorcycles shall be at least 9 inches apart, except that front turn signals on motorcycles manufactured after January 1, 1973, shall be at least 16 inches apart. Turn signal lamps on other vehicles shall be spaced as far apart as practical. The optical center of the front turn signal lamp shall be at least 4 inches from the inside diameter of the retaining ring of the lower beam headlamp unit, fog lamp unit, or passing lamp unit. Original equipment turn signals that emit two and one-half times the minimum candela requirements may be closer.

(b) Towed vehicles. The rearmost vehicle in a combination of vehicles shall be equipped with at least two single-faced turn signal lamps on the rear. The signal system on a combination of vehicles towed by a motor vehicle equipped with double-faced front turn signal lamps may be connected so only the double-faced turn signal lamps on the towing vehicle and the signal lamps on the rear of the rearmost vehicle are operative.

(c) Operation. Turn signal lamps visible to approaching or following drivers shall flash in unison, except that a turn signal consisting of two or more units mounted horizontally may flash in sequence from inboard to outboard. The lamps may be either extinguished simultaneously or lighted simultaneously. Turn signal lamps shall flash at a rate of 60 to 120 flashes per minute.

(11) Warning lamps. Required front warning lamps other than school bus warning lamps shall be mounted so the entire projected area of the lens is visible from all eye heights of drivers of other vehicles at angles within 45 degrees left to 45 degrees right of the front of the vehicle. If the light within these required angles is blocked by the vehicle or any substantial object on it, an additional warning lamp shall be displayed within the obstructed angle. Warning lamps may be mounted at any height.

**WSR 98-04-061**  
**PERMANENT RULES**  
**DEPARTMENT OF ECOLOGY**  
[Order 97-37—Filed February 2, 1998, 10:01 a.m.]

Date of Adoption: January 30, 1998.

Purpose: This action deletes an outdated and duplicative rule governing perchloroethylene dry cleaning systems.

Citation of Existing Rules Affected by this Order: Repealing WAC 173-490-203.

Statutory Authority for Adoption: Chapter 70.98 RCW.

Adopted under preproposal statement of inquiry filed as WSR 97-20-046 on September 24, 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 0, repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
January 30, 1998  
Tom Fitzsimmons  
Director

**WSR 98-04-062**  
**PERMANENT RULES**  
**DEPARTMENT OF ECOLOGY**  
[Order 97-38—Filed February 2, 1998, 10:03 a.m.]

Date of Adoption: January 30, 1998.

Purpose: This action deletes an outdated and duplicative rule governing perchloroethylene dry cleaning systems.

Citation of Existing Rules Affected by this Order: Amending WAC 173-460-060(1).

Statutory Authority for Adoption: Chapter 70.98 RCW.  
Adopted under notice filed as WSR 97-21-039 on October 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 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
January 30, 1998  
Tom Fitzsimmons  
Director



AMENDATORY SECTION (Amending Order 93-19, filed 1/14/94, effective 2/14/94)**WAC 173-460-060 Control technology requirements.**

Except as provided for in WAC 173-460-040, a person shall not establish, operate, or cause to be established or operated any new toxic air pollutant source which is likely to increase TAP emissions without installing and operating T-BACT. Satisfaction of the performance requirements listed below fulfill the T-BACT requirement for those particular sources. Local air pollution authorities may develop and require performance requirements in lieu of T-BACT provided that ecology approves the performance requirements as equivalent to T-BACT.

(1) ~~((Perchloroethylene dry cleaners. The entire dryer exhaust shall be vented through a control device which will reduce VOC emissions to 5 kg or less per 100 kg dry weight of cleaned articles.~~

~~(a) The control device shall meet one of the following conditions:~~

~~(i) The exhaust from a carbon adsorber shall contain less than 100 ppm perchloroethylene as measured over a period of one minute before dilution; or~~

~~(ii) The air temperature at the outlet of a refrigerated condenser shall reach seven degrees centigrade or less during the cool down period. A temperature gauge with a minimum range from negative thirty two to seventy five degrees centigrade shall be installed and maintained on the condenser outlet duct; or~~

~~(iii) The demonstrated control efficiency for any other control device shall be ninety percent or greater by weight, prior to the discharge to the atmosphere measured over a complete control cycle.~~

~~(b) The operation of any perchloroethylene dry cleaner shall meet all of the following conditions:~~

~~(i) All leaking components shall be repaired immediately; and~~

~~(ii) All filtration cartridges shall be drained in the filter housing or other enclosed container before discarding the cartridges.~~

~~(2)) Petroleum solvent dry cleaning systems. A petroleum solvent dry cleaning system shall include the following:~~

~~(a) All cleaned articles are dried in a solvent recovery dryer or the entire dryer exhaust is vented through a properly functioning control device which will reduce emissions to no more than 3.5 kg of VOC per 100 kg dry weight of cleaned articles; and~~

~~(b) All cartridge filtration systems are drained in their sealed housing or other enclosed container before discarding the cartridges; and~~

~~(c) All leaking components shall be repaired immediately.~~

~~((3)) (2) Chromic acid plating and anodizing. The facility-wide uncontrolled hexavalent chromium emissions from plating or anodizing tanks shall be reduced by at least ninety-five percent using either of the following control techniques:~~

~~(a) An antimist additive or other equally effective control method approved by ecology or authority; or~~

~~(b) The tank is equipped with:~~

~~(i) A capture system which represents good engineering practice and which shall be in place and in operation at all times electrical current is applied to the tank; and~~

~~(ii) An emission control system which limits hexavalent chromium emissions to no more than 0.15 milligrams per ampere-hour of electrical charge applied to the tank or uncontrolled emissions shall be reduced by ninety-five percent.~~

~~((4)) (3) Chromic acid plating and anodizing (greater than 1 kilogram). If the facility-wide hexavalent chromium emissions from chromic acid plating and anodizing are greater than 1 kilogram per year after the application of control techniques required by subsection ((3)) (2) of this section, the facility-wide hexavalent chromium emissions shall be reduced by at least ninety-nine percent using either of the following control techniques:~~

~~(a) An antimist additive or other equally effective control method approved by ecology or authority; or~~

~~(b) The tank is equipped with:~~

~~(i) A capture system which represents good engineering practice and which shall be in place and in operation at all times electrical current is applied to the tank; and~~

~~(ii) An emissions control system which limits hexavalent chromium emissions to no more than 0.03 milligrams per ampere-hour of electrical charge applied to the tank or uncontrolled emissions shall be reduced by ninety-nine percent.~~

~~((5)) (4) Solvent metal cleaners.~~

~~(a) Any solvent metal cleaner shall include all of the following equipment:~~

~~(i) A cover for the solvent tank which shall be closed at all times except when processing work in the degreaser. However, the cover shall be closed to the maximum extent possible when parts are being degreased;~~

~~(ii) A facility for draining cleaned parts such that the drained solvent is returned to the solvent tank;~~

~~(iii) For cold solvent cleaners, a freeboard ratio greater than or equal to 0.75;~~

~~(iv) Vapor degreasers shall have:~~

~~(A) A high vapor cutoff thermostat with manual reset; and~~

~~(B) For degreasers with spray devices, a vapor-up thermostat which will allow spray operation only after the vapor zone has risen to the design level; and~~

~~(C) Either a freeboard ratio greater than or equal to 1.00 or a refrigerated freeboard chiller; and~~

~~(v) Conveyorized vapor degreasers shall have:~~

~~(A) A drying tunnel or a rotating basket sufficient to prevent cleaned parts from carrying liquid solvent out of the degreaser; and~~

~~(B) A high vapor cutoff thermostat with manual reset; and~~

~~(C) A vapor-up thermostat which will allow conveyor movement only after the vapor zone has risen to the design vapor level.~~

~~(b) The operation of any solvent metal cleaner shall meet the following requirements:~~

~~(i) Solvent shall not leak from any portion of the degreasing equipment;~~

~~(ii) Solvent, including waste solvent, shall be stored in closed containers and shall be disposed of in such a manner as to prevent its evaporation into the atmosphere;~~

(iii) For cold cleaners, cleaned parts shall be drained until dripping ceases; and

(iv) Degreasers shall be constructed to allow liquid solvent from cleaned parts to drain into a trough or equivalent device and return to the solvent tank.

(c) For open-top vapor degreasers, solvent drag-out shall be minimized by the following measures:

(i) Racked parts shall be allowed to drain fully;

(ii) The work load shall be degreased in the vapor zone until condensation ceases;

(iii) Spraying operations shall be done within the vapor layer;

(iv) When using a powered hoist, the vertical speed of parts in and out of the vapor zone shall be less than three meters per minute (ten feet per minute);

(v) When the cover is open, the lip of the degreaser shall not be exposed to steady drafts greater than 15.3 meters per minute (fifty feet per minute); and

(vi) When equipped with a lip exhaust, the fan shall be turned off when the cover is closed.

(d) For conveyORIZED vapor degreasers, solvent drag-out shall be minimized by the following measures:

(i) Racked parts shall be allowed to drain fully; and

(ii) Vertical conveyor speed shall be maintained at less than three meters per minute (ten feet per minute).

~~((((6)))~~ (5) Abrasive blasting.

(a) Abrasive blasting shall be performed inside a booth or hangar designed to capture the blast grit or overspray.

(b) Outdoor blasting of structures or items too large to be reasonably handled indoors shall employ control measures such as curtailment during windy periods and enclosure of the area being blasted with tarps.

(c) Outdoor blasting shall be performed with either steel shot or an abrasive containing less than one percent (by mass) which would pass through a No. 200 sieve.

(d) All abrasive blasting with sand shall be performed inside a blasting booth or cabinet.

### WSR 98-04-063

#### PERMANENT RULES

#### INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter No. R 97-6—Filed February 2, 1998, 11:26 a.m.]

Date of Adoption: February 2, 1998.

Purpose: Establish and clarify the application of the Electronic Authentication Act (chapter 19.34 RCW) to the insurance code and regulations.

Statutory Authority for Adoption: RCW 48.02.060.

Adopted under notice filed as WSR 98-01-118 on December 18, 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 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 2, 1998

Greg J. Scully

Chief Deputy Commissioner

#### NEW SECTION

**WAC 284-01-050 Provisions relating to electronic authentication.** (1) The term "deliver" as used in Title 48 RCW and Title 284 WAC includes delivery by message, as "message" is defined in RCW 19.34.020. Where any provision in Title 48 RCW or Title 284 WAC requires that a writing be given or mailed to someone or left with someone or the like, the requirement is satisfied by delivery of a message, as "message" is defined in RCW 19.34.020.

(2) Where any provision in Title 48 RCW or Title 284 WAC requires that something be "written," or otherwise requires a writing, that requirement is met by anything that is a "writing" within the meaning of RCW 19.34.320.

(3) Where any provision in Title 48 RCW or Title 284 WAC requires that something be "signed," or otherwise requires a signature, that requirement is met by anything that is deemed "signed" under RCW 19.34.300.

### WSR 98-04-065

#### PERMANENT RULES

#### PARKS AND RECREATION COMMISSION

[Filed February 2, 1998, 1:20 p.m.]

Date of Adoption: January 16, 1998.

Purpose: Annual review of WAC language adjustments to reflect changing circumstances regarding public use of state parks.

Citation of Existing Rules Affected by this Order: Amending chapter 352-32 WAC, WAC 352-32-010, 352-32-030, 352-32-037, 352-32-045, 352-32-047, 352-32-075, 352-32-080, 352-32-085, 352-32-120, 352-32-130, 352-32-140, 352-32-150, 352-32-165, 352-32-170, 352-32-195, 352-32-200, 352-32-210, 352-32-25001, 352-32-25002, 352-32-251, 352-32-252, 352-32-300 and 352-32-330; and new sections WAC 352-32-01001 and 352-32-215.

Statutory Authority for Adoption: RCW 43.51.040.

Adopted under notice filed as WSR 97-23-089 on November 19, 1997.

Changes Other than Editing from Proposed to Adopted Version: The commission voted to keep the maximum number of camping nights at ten consecutive nights from April 1 through September 30, however, voted to provide park rangers discretion to allow campers up to fourteen consecutive nights when the park has adequate sites available. The commission also adopted clarifying language under the definition "camping party" in order to be clear within RCW 43.51.055.

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 24, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, amended 24, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 2, 1998

Jim French

Senior Policy Analyst

**AMENDATORY SECTION** (Amending WSR 97-21-133, filed 10/21/97, effective 1/1/98)

**WAC 352-32-010 Definitions.** Whenever used in this chapter the following terms shall be defined as herein indicated:

"Bivouac" shall mean to camp overnight on a vertical rock climbing route on a ledge or in a hammock sling.

"Camping" shall mean erecting a tent or shelter or arranging bedding, or both, or parking a recreation vehicle or other vehicle for the purpose of remaining overnight.

"Camping (~~unit~~) party" shall mean an individual or a group of people (~~(one)~~ two or more persons) that is organized, equipped and capable of sustaining its own camping activity. A "camping party" is a "camping unit" for purposes of RCW 43.51.055.

"Commercial recreation use" is a recreational activity in a state park that is packaged and sold as a service by an organization or individual, other than state parks or a state park concessionaire.

"Commercial recreation provider" is any individual or organization that packages and sells a service that meets the definition of a commercial recreation use.

"Commission" shall mean the Washington state parks and recreation commission.

"Day area parking space" shall mean any designated parking space within any state park area designated for daytime vehicle parking.

"Director" shall mean the director of the Washington state parks and recreation commission.

"Emergency area" is an area in the park separate from the designated overnight camping area, which the park manager decides may be used for camping when no alternative camping facilities are available within reasonable driving distances.

"Environmental interpretation" shall mean the provision of services, materials, publications and/or facilities, including environmental learning centers (ELC), for other than basic access to parks and individual camping, picnicking, and boating in parks, that enhance public understanding, appreci-

ation and enjoyment of the state's natural and cultural heritage through agency directed or self-learning activities.

"Environmental learning centers (ELC)" shall mean those specialized facilities, designated by the director, designed to promote outdoor recreation experiences and environmental education in a range of state park settings.

"Group camping areas" are designated areas usually primitive with minimal utilities and site amenities and are for the use of organized groups. Facilities and extent of development vary from park to park.

"Motorcycle" means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor and a moped.

"Multiple campsite" shall mean a designated and posted camping facility encompassing two or more individual standard, utility or primitive campsites.

"Overflow area" shall mean an area in a park separate from designated overnight and emergency camping areas, designated by the park manager, for camping to accommodate peak camping demands in the geographic region.

"Overnight accommodations" shall mean any facility or site designated for overnight occupancy within a state park area.

"Paraglider" shall mean an unpowered ultralight vehicle capable of flight, consisting of a fabric, rectangular or elliptical canopy or wing connected to the pilot by suspension lines and straps, made entirely of nonrigid materials except for the pilot's harness and fasteners. The term "paraglider" shall not include hang gliders or parachutes.

"Person" shall mean all natural persons, firms, partnerships, corporations, clubs, and all associations or combinations of persons whenever acting for themselves or by an agent, servant, or employee.

"Popular destination park" shall mean any state park designated by the director as a popular destination park because, it is typically occupied to capacity on Friday or Saturday night during the high use season.

"Primitive campsite" shall mean a campsite not provided with flush comfort station nearby and which may not have any of the amenities of a standard campsite.

"Public assembly" shall mean a meeting, rally, gathering, demonstration, vigil, picketing, speechmaking, march, parade, religious service, or other congregation of persons for the purpose of public expression of views of a political or religious nature for which there is a reasonable expectation that more than one hundred persons will attend based on information provided by the applicant. Public assemblies must be open to all members of the public, and are generally the subject of attendance solicitations circulated prior to the event, such as media advertising, flyers, brochures, word-of-mouth notification, or other form of prior encouragement to attend.

Alternatively, the agency director may declare an event to be a public assembly in the following cases: Where evidentiary circumstances and supporting material suggest that more than one hundred persons will attend, even where the applicant does not indicate such an expectation; or where there is reason to expect a need for special preparations by the agency or the applicant, due to the nature or location of the event.

"Ranger" shall mean a duly appointed Washington state parks ranger who is vested with police powers under RCW 43.51.170, and shall include the park manager in charge of any state park area.

"Recreation vehicle" shall mean a vehicle/trailer unit, van, pickup truck with camper, motor home, converted bus, or any similar type vehicle which contains sleeping and/or housekeeping accommodations.

"Residence" shall mean the long-term habitation of facilities at a given state park for purposes whose primary character is not recreational. "Residence" is characterized by one or both of the following patterns:

Camping at a given park for more than ~~((twenty))~~ thirty days within a ~~((thirty))~~ forty-day time period ~~((May))~~ April 1 through September 30; or ~~((thirty))~~ forty days within a sixty-day time period October 1 through ~~((April 30))~~ March 31. As provided in WAC 352-32-030(7), continuous occupancy of facilities by the same camping ~~((unit))~~ party shall be limited to ten consecutive nights ~~((May))~~ April 1 through September 30 ~~((and fifteen))~~. Provided that at the discretion of the park ranger the maximum stay may be extended to fourteen consecutive nights if the campground is not fully occupied. Campers may stay twenty consecutive nights October 1 through ~~((April 30))~~ March 31 in one park, after which the camping unit must vacate the overnight park facilities for three consecutive nights. The time period shall begin on the date for which the first night's fee is paid.

The designation of the park facility as a permanent or temporary address on official documents or applications submitted to public or private agencies or institutions.

"Sno-park" shall mean any designated winter recreational parking area.

"Special groomed trail area" shall mean those sno-park areas designated by the director as requiring a special groomed trail permit.

"Special recreation event" shall mean a group recreation activity in a state park sponsored or organized by an individual or organization that requires reserving park areas, planning, facilities, staffing, or other services beyond the level normally provided at the state park to ensure public welfare and safety and facility and/or environmental protection.

"Standard campsite" shall mean a designated camping site which is served by nearby domestic water, sink waste, garbage disposal, and flush comfort station ~~((and picnic table))~~.

"State park area" shall mean any area under the ownership, management, or control of the commission, including trust lands which have been withdrawn from sale or lease by order of the commissioner of public lands and the management of which has been transferred to the commission, and specifically including all those areas defined in WAC 352-16-020. State park areas do not include the seashore conservation area as defined in RCW 43.51.655 and as regulated under chapter ~~((352-36))~~ 352-37 WAC.

"Trailer dump station" shall mean any state park sewage disposal facility designated for the disposal of sewage waste from any recreation vehicle, other than as may be provided in a utility campsite.

"Upland" shall mean all lands lying above mean high water.

"Utility campsite" shall mean a standard campsite with the addition of electricity and which may have domestic water and/or sewer.

"Watercraft launch site" shall mean any facility located in a state park area designated for the purpose of placing or retrieving any vehicle-borne or trailer-borne watercraft into or out of the water.

"Water trail advisory committee" shall mean the twelve-member committee constituted by RCW 43.51.456.

"Water trail camping sites" shall mean those specially designated group camp areas identified with signs, that are near water ways, and that have varying facilities and extent of development.

#### NEW SECTION

**WAC 352-32-01001 Feeding wildlife.** No person shall intentionally feed, attract, or artificially sustain wildlife in state park areas. The feeding of indigenous wildlife is prohibited in all state park areas unless otherwise posted. This section does not apply to authorized feeding programs established with the Washington state department of fish and wildlife.

AMENDATORY SECTION (Amending WSR 96-02-015, filed 12/21/95, effective 1/21/96)

**WAC 352-32-030 Camping.** (1) Camping facilities of the state parks within the Washington state parks and recreation commission system are designed and administered specifically to provide recreational opportunities for park visitors. Use of park facilities for purposes which are of a nonrecreational nature, such as long-term residency at park facilities, obstructs opportunities for recreational use, and is inconsistent with the purposes for which those facilities were designed.

No person or camping ~~((unit))~~ party may use any state park facility for residence purposes, as defined (WAC 352-32-010~~((17))~~)).

(2) No person shall camp in any state park area except in areas specifically designated and/or marked for that purpose or as directed by a ranger.

(3) Occupants shall vacate camping facilities by removing their personal property therefrom ~~((prior to))~~ no later than 1:00 p.m., ~~((or other appropriate, established time in parks where camping is reserved))~~ if the applicable camping fee has not been paid or if the time limit for occupancy of the campsite has expired or the site is reserved by another party. Remaining in a campsite beyond the established checkout time shall subject the occupant to the payment of an additional camping fee.

(4) Use of utility campsites by tent campers shall be subject to payment of the utility campsite fee except when otherwise specified by a ranger.

(5) A campsite is considered occupied when it is being used for purposes of camping by a person or persons who have paid the camping fee within the applicable time limits or when it has been reserved through the appropriate procedures of the reservation system. No person shall take or attempt to take possession of a campsite when it is being occupied by another party, or when informed by a ranger that such site is occupied, or when the site is posted with a "reserved" sign. In the case of a reserved site, a person

holding a valid reservation for that specific site may occupy it according to the rules relating to the reservation system for that park. In order to afford the public the greatest possible use of the state park system on a fair and equal basis, campsites in those parks not on the state park reservation system will be available on a first-come, first-serve basis. No person shall hold or attempt to hold campsite(s), for another camping (~~unit~~) party for present or future camping dates, except as prescribed for multiple campsites. Any site occupied by a camping (~~unit~~) party must be actively utilized for camping purposes.

(6) One person may register for one or more sites within a multiple campsite by paying the multiple campsite fee. (~~Registration preference will be given to multiple camping units who want to use multiple sites.~~) An individual may register and hold a multiple campsite for occupancy on the same day by other camping (~~units~~) parties. Multiple campsites in designated reservation parks are reservable under the reservation system.

(7) In order to afford the general public the greatest possible use of the state park system, on a fair and equal basis, and to prevent residential use, continuous occupancy of facilities by the same camping (~~unit~~) party shall be limited (~~to ten~~). Campers may stay ten consecutive nights in one park, after which the camping (~~unit~~) party must vacate the site for three consecutive nights, (~~May~~) April 1 through September 30, not to exceed (~~twenty~~) thirty days in a (~~thirty~~) forty-day time period (~~and fifteen~~). Provided that at the discretion of the park ranger the maximum stay may be extended to fourteen consecutive nights if the campground is not fully occupied. Campers may stay twenty consecutive nights in one park, after which the camping (~~unit~~) party must vacate the site for three consecutive nights, October 1 through (~~April 30~~) March 31, not to exceed (~~thirty~~) forty days in a sixty-day time period. This limitation shall not apply to those individuals who meet the qualifications of WAC 352-32-280 and 352-32-285.

(8) (~~Only one camping unit with~~) A maximum of eight people shall be permitted at a campsite overnight, unless otherwise authorized by a ranger. The number of vehicles occupying a campsite shall be limited to one car (~~or~~) and one recreational vehicle: *Provided*, That one additional vehicle without built-in sleeping accommodations may occupy a designated campsite when in the judgment of a ranger the constructed facilities so warrant. The number of tents allowed at each campsite shall be limited to the number that will fit on the designated or developed tent pad as determined by a ranger.

(9) Persons traveling by bicycles, motor bikes or other similar modes of transportation and utilizing campsites shall be limited to eight persons per site, provided no more than four motorcycles (~~shall~~) may occupy a campsite.

(10) Water trail camping sites are for the exclusive use of persons traveling by human and wind powered beachable vessels as their primary mode of transportation to the areas. Such camping areas are not subject to the campsite capacity limitations as otherwise set forth in this section. Capacities for water trail camping sites may be established by the ranger on an individual basis and are subject to change based upon the impacts to the area. All persons using water trail camping sites shall have in their possession a valid water trail permit.

(11) Overnight stays (bivouac) on technical rock climbing routes will be allowed as outlined in the park's site specific climbing management plan. All litter and human waste must be contained and disposed of properly.

(12) Emergency camping areas may be used only when all designated campsites are full and at the park manager's discretion. Persons using emergency areas must pay the primitive campsite fee and must vacate the site when directed by the park manager.

(13) Designated overflow camping areas may be used only when all designated campsites in a park are full and the demand for camping in the geographic area around the park appears to exceed available facilities. Persons using overflow camping areas must pay the primitive campsite fee. If a nearby flush comfort station is available, persons using overflow camping areas must pay the standard campsite fee.

(14) Except as provided in WAC 352-32-310, any violation of this section is an infraction under chapter 7.84 RCW.

**AMENDATORY SECTION** (Amending WSR 95-22-067, filed 10/30/95, effective 1/1/96)

**WAC 352-32-037 Environmental learning centers (ELCs).** All ELCs are reservable by:

- (1) Complying with the reservation procedure; and
- (2) Paying the appropriate fees and deposits both of which are published by state parks.

Use of ELCs shall be on a first-come-first-served basis if the facility is not reserved.

**AMENDATORY SECTION** (Amending WSR 95-22-067, filed 10/30/95, effective 1/1/96)

**WAC 352-32-045 Reservations for use of designated group facilities.** (1) All designated group facilities shall be reservable by groups. A group is defined as 20 or more people engaged together and commonly in outdoor recreation at one park location.

(2) All designated group facilities shall have a predetermined use capacity. No group exceeding this capacity in number shall use these areas. Groups making reservations shall be charged the applicable (~~group~~) fee for (~~the~~) a minimum of 20 people (~~if less than that number actually use the group facility~~).

(3) Use of designated group facilities may be by reservation. Requests made at the park for reservations for groups of 20 to 250 shall be made 15 days in advance and for groups in excess of 250 shall be made 30 days in advance of the proposed use date, using the group use permit. All conditions outlined on the group use permit shall be binding on the group.

(4) Submittal of the group use permit request, payment of appropriate fees, which may include a nonrefundable reservation transaction fee, a first day/night use fee and a damage deposit are required for the use of these facilities. Fees are published by state parks. In those cases where the fee is submitted at a later date, it must be paid by certified check, bank money order, or postal money order. Refunds will be made only to those groups which cancel their reservations thirty or more days before the effective date of the reservations.

(5) For overnight group use, parking will be in the provided, defined areas. If additional parking is required, it may be available in the park's extra vehicle parking facility following the payment of the appropriate extra vehicle parking fee.

(6) A damage deposit may be required by the park manager as part of the reservation. In those cases where the deposit is submitted at a date later than the reservation request, it must be paid by certified check, bank money order, or postal money order. This deposit shall be held by the Washington state parks and recreation commission to encourage the cleanliness and good order of the group facility. Deposits are published by state parks with the schedule of fees. Refund of this deposit shall be determined after an inspection of the area by a ranger and the individuals responsible for the group.

(7) Facility reservations made at the park will be accepted for the calendar year, on or after the first working day in January of that calendar year. Reservations shall be made by a person of the age of majority, who must be in attendance during the group's activities. Reservations at the parks will be accepted in writing, in person, or by phone at the discretion of the park manager. In person and phone reservation requests shall only be accepted during normal park operation hours. All reservation requests will be processed in order of arrival. Group facility areas not reserved are available on a first-come, first-serve basis.

(8) Any group wishing to sell or dispense alcoholic beverages must request and obtain all appropriate licenses and permits. In order to sell alcoholic beverages, the group must obtain a temporary concession permit from the headquarters office of the Washington state parks and recreation commission.

(9) It shall be within the authority of the park manager, or his representative, to rescind the rights of a reservation, and remove from the park, any or all members of the group whose behavior, at any time, is in conflict with any state laws, becomes detrimental to the health and safety of the group or other park users, or becomes so unruly as to affect the reasonable enjoyment of the park by other park users.

(10) Reservations placed through the central reservation system for individual overnight facilities and designated group facilities shall be made according to policies approved by the director.

**AMENDATORY SECTION** (Amending WSR 95-22-067, filed 10/30/95, effective 1/1/96)

**WAC 352-32-047 Special recreation event permit.**

Any person or group, hereinafter referred to as the "applicant," desiring to make use of a portion of a state park for a special recreation event which will require special planning, facilities, staffing, or environmental protection measures, or the closure of the area to, or restriction of, established recreational uses, shall apply for a special recreation event permit. The director or designee may consult with the appropriate local government in reviewing the application and may issue a permit ~~((according))~~ subject to ~~((the criteria listed below))~~ conditions established by the agency. ~~((The permit may set forth certain))~~ Such conditions ~~((including))~~ may include but not be limited to the closure of the specified area to other recreational activities, including motor vehicle

traffic, which are determined to have the potential to interfere with the event or which could risk the safety of the recreating public or the special event participants. However, no such permit may result in the unreasonable exclusion of recreationists from the remainder of the park. All events authorized under this permit shall be open to public participation and/or observation ~~((at the option of the applicant.~~

~~In determining whether to issue the permit, the director or designee will review the proposal for consistency with the following criteria:~~

- ~~(1) The event is consistent with activities that are appropriate for a specific park classification;~~
- ~~(2) The event will not exceed nor damage facilities or resources or interfere with park operations;~~
- ~~(3) The event will not disrupt wildlife;~~
- ~~(4) Past experience has not shown that the applicant has failed to comply with laws or regulations or satisfactory conduct of a previous event;~~
- ~~(5) The event does not present a clear and present danger to the public health and safety;~~
- ~~(6) A prior applicant for another event for the same general time and place;~~
- ~~(7) The event will not unreasonably conflict with all park user's recreational pursuits;~~
- ~~(8) The event will conform with all of the applicable statutes, rules, policies, and procedures of the commission and instructions of the commission staff who supervise the event)).~~

A special recreation event permit shall be issued only for recreational events where there is a reasonable expectation that a minimum of twenty persons will participate. The event must be oriented towards a recreational pursuit. Not more than three permits will be issued to a given applicant for a similar event at the same park during a one-year period.

Persons or organizations that desire to conduct a special recreation event in a state park shall submit a permit application obtainable at any state park and the basic permit application fee as published by state parks to the park where the event is proposed to take place.

Such application shall be submitted at least thirty days in advance of the proposed date of the event, to allow, where applicable, for necessary internal review and analysis, consultation with local governments, public notice, establishment of permit conditions, and required agency preparations and coordination. The director or designee shall approve or disapprove a permit application and establish the conditions for an approved application. The permittee must pay any fees published by state parks for the use of park lands or facilities. The director or designee shall determine the need for any fees necessary to cover costs incurred by the agency for additional staffing, equipment, facilities, or special services not normally provided by state parks, as well as the need for any bond, damage deposit, or liability insurance arising from any potential hazards associated with the conduct of the event. Any such fees, bond, damage deposit, or liability insurance shall be provided by the applicant prior to the issuance of the permit.

If additional unanticipated costs are incurred by the commission resulting from the event, the applicant shall reimburse the commission for such costs in a timely manner. If the additional costs are not paid, the director may recover

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such costs from the bond or damage deposits provided. Any funds remaining from the bond or damage deposit shall be returned to the applicant.

**AMENDATORY SECTION** (Amending WSR 96-01-078, filed 12/18/95, effective 1/18/96)

**WAC 352-32-075 Use of nonmotorized cycles or similar devices.** (1) Whenever used in this section, nonmotorized cycle or similar device shall mean any wheeled, operator-propelled equipment that transports the operator on land, including cycles, roller blades and skateboards, but not including wheelchairs or other devices utilized by persons with disabilities.

(2) Operation of nonmotorized cycles or similar devices shall be permitted upon roads and trails in state park areas, except:

(a) Where posted with prohibitory signing by approval of the director or designee. Prior to such posting, a public meeting shall be advertised and conducted in the region where the park is located. A closure decision shall be based on an evaluation of the degree of conflict with other park users, public safety, or damage to park resources and/or facilities related to these devices.

(b) Within designated natural areas, natural forest areas, or natural area preserves: *Provided*, That relocation of existing nonmotorized trails into natural areas or natural forest areas may be permitted upon a finding by the director that such relocation is for the purpose of reducing overall resource impacts to a state park area.

(c) Upon designated special use trails such as interpretive or exercise trails.

(d) Upon docks, piers, floats, and connecting ramps.

(3) Persons operating such devices in state park areas shall:

(a) Obey regulatory signs, including those permanently or temporarily erected, that govern the timing, location, speed, type and/or manner of operation, designed to promote visitor health and safety.

(b) Restrict speed and manner of operation to reasonable and prudent practices relative to terrain, prevailing conditions, equipment, personal capabilities, personal safety, and the safety of all other park visitors.

(c) Yield the right of way to pedestrians.

(d) Dismount and walk in congested areas and posted walk zones.

(e) Slow down, make presence known well in advance, and use courtesy and caution when approaching or overtaking other persons.

(f) Display adequate lighting during hours of darkness.

(g) Use caution when approaching turns or areas of limited sight distance.

(h) Not disturb or harass wildlife.

(i) When on public roads within a state park area, operate in compliance with any additional requirements of RCW 46.61.750(~~(-Effect of regulations - Penalty)~~) through 46.61.850.

(4) The director or designee may designate trails for preferential use by cyclists and may specifically authorize use of any facilities for special cycling recreation events, excluding roads or trails specified in subsection (2) of this section.

(5) Except as provided in WAC 352-32-310, any violation of this section is an infraction under chapter 7.84 RCW.

**AMENDATORY SECTION** (Amending WSR 92-19-098, filed 9/17/92, effective 10/18/92)

**WAC 352-32-080 Swimming.** (1) Swimming areas in state park areas are marked with buoys, log booms, or other markers, clearly designating the boundaries of such areas.

(2) Any person swimming outside the boundaries of a designated swimming area, or in any area not designated for swimming, or in any area, whether designated for swimming or not, where no lifeguard is present, shall do so at his or her own risk.

(3) All persons using any designated swimming area shall obey all posted beach rules and/or the instructions of lifeguards, rangers, or other state parks employees.

(4) No person shall swim in any designated ~~((boat))~~ watercraft launching area.

(5) No person shall give or transmit a false signal or false alarm of drowning in any manner.

(6) Use of inflated mattresses, rubber rafts, rubber boats, inner tubes, or other objects, except U.S. Coast Guard approved life jackets, in state park areas for the purpose of buoyancy while swimming or playing in any designated swimming area is prohibited. Concessionaires are not permitted to rent or sell such floating devices within state parks without written approval of the commission.

(7) Except as provided in WAC 352-32-310, any violation of this section is an infraction under chapter 7.84 RCW.

**AMENDATORY SECTION** (Amending WSR 96-02-015, filed 12/21/95, effective 1/21/96)

**WAC 352-32-085 Technical rock climbing.** (1) Whenever used in this section, technical rock climbing shall mean climbing while using such aids as pitons, carabiners or snap links, chalk, ropes, fixed or removable anchors, or other similar equipment. Technical rock climbing includes bouldering and free soloing (respectively low and high elevation climbing without ropes).

(2) Technical rock climbing will be allowed in state parks except it is:

(a) Not permitted in natural area preserves;

(b) Conditioned in heritage areas, natural areas and natural forest areas;

(c) Not permitted where the director or designee has closed the area pursuant to subsection (3) of this section;

(d) Limited in state park areas without climbing management plans pursuant to subsection (6) of this section to the use of routes with established fixed protection, new routes that do not use fixed protection, nor require gardening/cleaning with any type of cleaning tool;

(e) Not permitted in state park areas closed to public use.

(3) The director or designee may, permanently or for a specified period or periods of time, close any state park area to technical rock climbing if the director or designee concludes that a technical rock climbing closure is necessary for the protection of the health, safety and welfare of the public, park visitors or staff, or park resources. Prior to closing any park or park area to technical rock climbing, the

director or the designee shall hold a public meeting in the general area of the park or park area to be closed to technical rock climbing. Prior notice of the meeting shall be published in a newspaper of general circulation in the area and at the park at least thirty days prior to the meeting. In the event that the director or designee determines that it is necessary to close a rock climbing area immediately to protect against an imminent and substantial threat to the health, safety and welfare of the public, park visitors or staff, or park resource, the director or designee may take emergency action to close a (~~park or~~) park area to rock climbing without first complying with the publication and hearing requirements of this subsection. Such emergency closure may be effective for only so long as is necessary for the director to comply with the publication and hearing requirements of this subsection.

(4) The director or designee shall ensure that any (~~park or~~) park area closed to technical rock climbing pursuant to subsection (3) of this section is conspicuously posted as such at the entrance of (~~said park or~~) said park area. Additionally, the director shall maintain a list of all parks and park areas closed to technical rock climbing pursuant to subsection (3) of this section.

(5) The director or designee shall establish a committee of technical rock climbers, to advise park staff on park management issues related to technical rock climbing for each state park area where deemed necessary by the agency.

(6) Each state park area with an established advisory committee of technical rock climbers will have a climbing management plan which will specify technical rock climbing rules concerning overnight stays on climbing routes, bolting, power drills, stabilization of holds, group size and activities, gardening/cleaning of routes pursuant to chapter 352-28 WAC and RCW 43.51.180, chalk, special use designations for climbing areas, protection of sensitive park resources, and other such issues required by the director. Climbing management plans that relate to natural forest areas or heritage areas must be approved by the commission. The director shall ensure that any technical rock climbing rules contained in a climbing management plan are conspicuously posted at the entrance of the affected park area.

(7) Bolting will be allowed as specified in climbing management plans.

(8) The use of power drills will be allowed only if the park climbing management plans specifically permit under specified conditions for bolt replacement and bolt installation on new routes. They are otherwise prohibited.

(9) The addition of holds onto the rock face by any means, including gluing, chipping, or bolting is prohibited.

(10) Except as provided in WAC 352-32-310, any violation of this section and rules contained in the park management plan and posted at the park is an infraction under chapter 7.84 RCW.

**AMENDATORY SECTION** (Amending WSR 93-06-001, filed 2/17/93, effective 3/20/93)

**WAC 352-32-120 Firearms and/or weapons.** No person shall possess a firearm with a cartridge in any portion of the mechanism within any upland state park area, nor shall any person discharge or propel across, in, or into any upland state park area as defined in WAC 352-32-

010(~~(13)~~), a firearm, bow and arrow, spear, spear gun, harpoon, or air or gas weapon, or any device capable of injuring or killing any person or animal, or damaging or destroying any public or private property, except where the commission for good cause has authorized a special recreational activity upon finding that it is not inconsistent with state parks use. This WAC does not apply to on duty law enforcement officers when working in the official capacity of their employing law enforcement agency.

**AMENDATORY SECTION** (Amending WSR 96-22-018, filed 10/29/96, effective 1/1/97)

**WAC 352-32-130 Aircraft.** (1) No aircraft shall land on or take off from any body of water or land area in a state park area not specifically designated for landing aircraft. This provision does not apply to official aircraft used in the performance of search and rescue missions, medical emergencies, law enforcement activities, emergency evacuations or fire fighting activities. It also does not apply in cases where the director or designee specifically authorizes such landings or take offs, in writing, associated with the operational, or administrative needs of the agency or state.

(2) Individuals who have complied with the registration process provided or who have obtained a special recreation event permit pursuant to WAC 352-32-047 may launch and land paragliders in state park areas specifically designated by the director as available for paragliding. Prior to any such designation, the director or designee shall advertise and conduct a public meeting in the region where the park is located. The director shall consider the potential impacts of paragliding in the proposed area, including but not limited to the following factors: The degree of conflict paragliding may have with other park uses, public safety issues, and any potential damage to park resources/facilities. Any park designated for paragliding shall be conspicuously posted as such by the director.

(3) Individuals paragliding in state parks must:

(a) Comply with the registration process provided for such purposes;

(b) Observe all applicable laws and regulations;

(c) Never destroy or disturb park facilities, natural features, or historical or archeological resources;

(d) Conduct themselves with thoughtfulness, courtesy and consideration for others, and not interfere with other recreational activities;

(e) Conduct themselves in compliance with the following basic safety regulations:

(i) Comply with specific site operational rules that are posted;

(ii) Fly in a manner consistent with the pilot rating held;

(iii) Preplanned landings should be made in areas no smaller than forty feet wide by one hundred feet long;

(iv) Make preflight checks of weather, equipment and site conditions;

(v) Observe all published traffic and right of way flight guidelines, including yielding right of way to all aircraft;

(vi) Wear protective clothing, headgear, Coast Guard approved flotation gear, reserve parachute, supplemental oxygen and communication equipment as appropriate for conditions;



- (vii) Fly in a manner that does not create a hazard for other persons or property;
- (viii) Fly only during daylight hours, or hours otherwise specified by posting at the site;
- (ix) Do not fly over congested areas of parks or open air assembly of persons;
- (x) Fly only in designated areas of parks;
- (xi) Fly with visual reference to the ground surface at all times.
- (xii) Do not tether paraglider to the ground or other stable nonmovable object.
- (f) Not fly while under the influence of alcohol or drugs.

**AMENDATORY SECTION** (Amending Order 9, filed 11/24/70)

**WAC 352-32-140 Fireworks.** No person shall possess, discharge, set off, or cause to be discharged, in or into any state park area, any firecrackers, torpedoes, rockets, fireworks, explosives, or substance harmful to the life or safety of persons or property. Provided that the director or designee may issue permits for firework displays subject to conditions established by the agency and as provided in chapter 70.77 RCW.

**AMENDATORY SECTION** (Amending WSR 96-01-030, filed 12/11/95, effective 1/11/96)

**WAC 352-32-150 Fishing.** (1) For the purposes of this section, the following definition applies: Fish are defined as all marine and freshwater fish and shellfish species including all species of aquatic invertebrates.

(2) Except for those state park areas in which harvest has been prohibited pursuant to subsection (3), (4), or (5) of this section, all state park areas are open for the harvest of fish, subject to all laws, rules, and regulations of the state department of fish and wildlife relating to seasons, limits, and methods of harvest. The director may develop or amend a memorandum of agreement with the state department of fish and wildlife to guide management of state park fishing areas.

(3) No person shall remove or cause to be removed any fish from any state park area except for food fish as defined by WAC 220-12-010, shellfish as defined by WAC 220-12-020, and game fish as defined by RCW 77.08.020 and WAC 232-12-019.

(4) The commission may, after consultation with the state department of fish and wildlife and local tribes, close state park areas to the harvest of some or all species of fish. Such state park areas shall be conspicuously posted as closed to harvest.

(5) The director may temporarily close any state park area to the harvest of some or all species of fish. Any such closure may be for only so long as is necessary to bring the issue before the commission at its next scheduled regular meeting. Such state park areas shall be conspicuously posted as closed to harvest.

(a) Prior to closing any park area pursuant to this subsection, the director or ~~((the director's))~~ designee shall hold a public hearing in the general vicinity of the park area to be closed. Prior notice of the public hearing shall be

published in a newspaper of general circulation in the vicinity.

(b) In the event the director determines that an immediate harvest closure is necessary to protect against an imminent and substantial threat to the health, safety, and welfare of the public, park visitors or staff or commission property, the director may take emergency action to close a park to the harvest of fish without first complying with the publication and hearing requirements of this subsection. Such emergency closures may be effective for only so long as is necessary for the director to comply with the publication and hearing requirements of this subsection.

(6) A list of the state park areas closed pursuant to subsection (4) or (5) of this section shall be maintained by the director or ~~((the director's))~~ designee and be available to the public upon request.

(7) No person shall harvest or possess any fish from within a state park area posted as closed to harvest pursuant to subsection (4) or (5) of this section, except as necessary for scientific research authorized in writing by state parks.

**AMENDATORY SECTION** (Amending WSR 95-22-067, filed 10/30/95, effective 1/1/96)

**WAC 352-32-165 Public assemblies, meetings.** (1) Public assemblies are permitted in state park areas on grounds which are open to the public generally, provided a permit therefor has been issued as herein provided.

(2) An application for such a permit may be submitted on such forms as may be provided by the commission, or in any written form so long as the permit application sets forth the following:

- (a) Name, address and phone number of the applicant;
- (b) Date, time, duration, nature and place of the proposed event, including a description or schedule of events and activities;
- (c) Estimate of the number of persons expected to attend including the basis for the estimate;
- (d) Special equipment, including temporary structures such as speakers' stands, platforms, lecterns, chairs, benches or the like, and any sound amplification equipment to be used in connection with the event;
- (e) Special facilities, including emergency first aid, additional sanitation and refuse collection facilities, to be used in connection with the event;
- (f) Crowd control to be provided by the event sponsor;
- (g) Designation of a responsible contact individual with whom park officials may coordinate event activities, plans and preparations.

(3) The equipment and facilities referenced in subsection (2)(d) and (e), of this section, are to be provided by the event sponsor, unless other mutually satisfactory arrangements are made to use locally available commission owned equipment and facilities.

(4) The applicant must supply satisfactory evidence of arrangements for such equipment, facilities, and crowd control.

(5) The applicant must submit a completed environmental checklist along with the application. Environmental checklists are available at libraries, city planning offices, state parks, and similar outlets. Upon request, the agency will assist the applicant in completing the environmental

checklist and may be compensated in accordance with agency State Environmental Policy Act (SEPA) rules, WAC 197-11-914.

(6) It is recommended that permit applications be submitted at least ~~((fifteen))~~ thirty days in advance of the proposed event so that the information supplied in the application may be verified and so that the agency can notify and coordinate action with officials of other jurisdictions and agencies responsible for health, safety and welfare.

(7) The permit application must be submitted along with a nonrefundable permit fee as published by state parks to the director of the Washington State Parks and Recreation Commission, 7150 Cleanwater Lane, P.O. Box 42650, Olympia, Washington 98504-2650. The director, or ~~((his or her))~~ designee, may issue a permit consistent with the application, or otherwise modified in a manner which is acceptable to the applicant. The director will issue a permit on proper application unless:

(a) A prior application for the same time and place has been made which has been or will be granted; or

(b) The event will present a clear and present danger to the public health or safety; or

(c) The event is of such nature or duration that it cannot reasonably be accommodated in the particular park area applied for. In considering this, the director shall take into account the potential for significant environmental impact.

(8) All permit applications shall be deemed granted if not denied or otherwise conditioned or limited as herein specified, and the applicant advised of such action by written notification mailed, first-class postage prepaid, within ten days of receipt of the application. The granting of this permit does not exempt the applicant from complying with other state, county or local permit requirements nor does it excuse compliance with the State Environmental Policy Act, where applicable. A threshold determination will be made by the agency to determine potential environmental impact. Applicants should be aware that timelines may exist under the State Environmental Policy Act and implementing regulations which are independent of this permit requirement.

(9) All permit denials will be in writing, will contain a statement of the specific reasons for the denial, and will advise the applicants of the right to request judicial review of the denial as provided in subsection (11) of this section.

(10) A permit issued by the director may contain such conditions as are reasonably consistent with protection and use of the park area for the purposes for which it is maintained. It may also contain reasonable limitations on the time and area within which the event is permitted.

(11) Applicants whose permit application is denied may in writing request that the commission seek judicial review of the denial, in which event the commission shall timely seek a declaratory judgment pursuant to the Uniform Declaratory Judgment Act, chapter 7.24 RCW, and Superior Court Rule 57, in the superior court for Thurston County. Such requests shall be mailed, or otherwise delivered to the Director, Washington State Parks and Recreation Commission, 7150 Cleanwater Lane, P.O. Box 42650, Olympia, Washington 98504-2650.

AMENDATORY SECTION (Amending Order 9, filed 11/24/70)

**WAC 352-32-170 Rubbish.** (1) No person shall leave, deposit, drop, or scatter bottles, broken glass, ashes ~~(except human crematory ashes)~~, waste paper, cans, or other rubbish, in a state park area, except in a garbage can or other receptacle designated for such purposes.

(2) No person shall deposit any household or commercial garbage, refuse, waste, or rubbish, which is brought as such from any private property, in any state park area garbage can or other receptacle designed for such purpose.

AMENDATORY SECTION (Amending WSR 95-22-067, filed 10/30/95, effective 1/1/96)

**WAC 352-32-195 Solicitation.** Except as may be otherwise allowed in connection with a permit issued under WAC 352-32-165 or 352-32-047, or a cooperative agreement pursuant to RCW 43.51.060(2), no person shall engage in solicitation, or sell or peddle any services~~((s;+))~~, goods, wares, merchandise, liquids, or edibles for human consumption in any state park area, except by concession or permit granted by the commission. Except as provided in WAC 352-32-310, any violation of this section is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 96-01-078, filed 12/18/95, effective 1/18/96)

**WAC 352-32-200 (~~Penalties~~) Expulsion from state park areas.** (1) In addition to the penalty provided in RCW 43.51.180, or any other existing or future law of the state of Washington, failure to comply with any section of this chapter, or of any other chapter of this title, or any other rule or regulation of the commission, or with any other federal, state, or local law, rule, or regulation applicable under the circumstances, shall subject the person so failing to comply to ~~((ejection))~~ expulsion from any state park area.

(2) All drug or alcohol related misconduct for which a citation is issued shall additionally subject the individual to expulsion from all lands administered by the commission for the following periods:

(a) One incident shall result in a twenty-four-hour expulsion.

(b) Two incidents shall result in a thirty-day expulsion.

(c) Three incidents shall result in a one-year expulsion.

~~((3) It shall be a civil infraction, under chapter 7.84 RCW, to fail to abide by a prominently posted restriction on the public use of park property.))~~

AMENDATORY SECTION (Amending WSR 97-21-133, filed 10/21/97, effective 1/1/98)

**WAC 352-32-210 Consumption of alcohol in state park areas.** (1) Opening, possessing alcoholic beverage in an open container, or consuming any alcoholic beverages in any state park or state park area is prohibited except in the following designated areas and under the following circumstances in those state parks or state park areas not posted by the director as closed to alcohol pursuant to subsection (4) of this section:

(a) In designated campsites or in other overnight accommodations, by registered occupants or their guests;

(b) In designated picnic areas, which shall include those sites within state park areas where picnic tables, benches, fireplaces, and/or outdoor kitchens are available, even though not signed as designated picnic areas and public meeting rooms;

(c) In any reservable group day use facility by any authorized group which has paid the reservation fee and applicable damage deposit and which has obtained prior permit authorization to have alcohol by the park manager; and

(d) In any building, facility or park area operated and maintained under a concession agreement, wherein the concessionaire has been licensed to sell alcoholic beverages by the Washington state liquor control board, and where the dispensation of such alcoholic beverages by such concessionaire has been approved by the commission.

(2) Opening, possessing alcoholic beverage in an open container, or consuming any alcoholic beverages is prohibited at the following locations:

(a) Dash Point State Park;

(b) Saltwater State Park;

Except in the following designated areas and under the following circumstances:

(i) In designated campsites, or in other overnight accommodations by registered occupants or their guests.

(ii) In any building, facility or park area operated and maintained under a concession agreement wherein the concessionaire has been licensed to sell alcoholic beverages by the Washington state liquor control board, and where the dispensation of such alcoholic beverages by such concessionaire has been approved by the commission.

(iii) In any reservable group day use facility by any authorized group which has paid the reservation fee and applicable damage deposit and which has obtained prior permit authorization to have alcohol by the park manager.

(3) The director may, for a specified period or periods of time, close any state park or state park area to alcohol if the director concludes that an alcohol closure is necessary for the protection of the health, safety and welfare of the public, park visitors or staff, or commission property. The director shall consider factors including but not limited to the effect or potential effect of alcohol on public and employee safety, park appearance, atmosphere, and noise levels, conflicts with other park uses or users, the demand for law enforcement, and the demand on agency staff. Prior to closing any park or park area to alcohol, the director or ((the director's)) designee shall hold a public hearing in the general area of the park or park area to be closed to alcohol. Prior notice of the meeting shall be published in a newspaper of general circulation in the area. In the event the director determines that an immediate alcohol closure is necessary to protect against an imminent and substantial threat to the health, safety and welfare of the public, park visitors or staff, or commission property, the director may take emergency action to close a park or park area to alcohol without first complying with the publication and hearing requirements of this subsection. Such emergency closure may be effective for only so long as is necessary for the director to comply with the publication and hearing requirements of this subsection.

(4) The director shall ensure that any park or park area closed to alcohol pursuant to subsection (3) of this section is

conspicuously posted as such at the entrance to said park or park area. Additionally, the director shall maintain for public distribution a current list of all parks and park areas closed to alcohol pursuant to subsection (3) of this section.

(5) Dispensing alcoholic beverages from containers larger than two gallons is prohibited in state park areas except when authorized in writing and in advance by the park manager.

(6) The provisions of this rule shall not apply to any part of the Seashore Conservation Area, as designated and established by RCW 43.51.655.

(7) Opening, consuming, or storing alcoholic beverages in Fort Simcoe State Park and Squaxin Island State Park is prohibited.

(8) Except as provided in WAC 352-32-310, any violation of this section is an infraction under chapter 7.84 RCW.

#### NEW SECTION

**WAC 352-32-215 Compliance with signs.** It shall be a civil infraction, under chapter 7.84 RCW, to fail to abide by a prominently posted restriction on the public use of park property.

AMENDATORY SECTION (Amending WSR 95-03-005, filed 1/5/95, effective 2/5/95)

**WAC 352-32-25001 Recreational and conference center housing fees and meeting room fees charged.** Recreation and conference center housing and meeting room fees for Fort Worden State Park are reviewed and modified as necessary by the commission each year. A fee schedule listing these fees is available by contacting Fort Worden State Park, 200 Battery Way, Port Townsend, Washington 98368. In reservation of facilities at Fort Worden State Park, certain deposits and cancellation fees apply. ((Please)) Consult the annual fee schedule for reservation, deposit and cancellation rules and information. Consistent with the Fort Worden State Park Master Facility Use Plan, conference groups may also reserve campsites in advance as their sole overnight accommodation: *Provided*, That there will be a twenty-site minimum for any individual reservation. During the months of May through September only the upper campground may be reserved by such conference groups. During the months of October through April, all of the upper campground and twenty sites in the beach level campground may be reserved by conference groups.

AMENDATORY SECTION (Amending WSR 95-22-067, filed 10/30/95, effective 1/1/96)

**WAC 352-32-25002 Campsite and rally area reservations—Fort Worden State Park.** (1) Advance individual campsite reservations will be available at Fort Worden State Park. They may be made throughout the year for no more than ten consecutive nights within the current and first succeeding calendar month, except that a continuous reservation may carry from the end of the first succeeding month into the beginning of the next succeeding month. Reservations may be made by mail, or in person, at Fort Worden State Park, and will require a completed application, the first night's camping fee and the nonrefundable reservation transaction fee published by state parks. Mail-in reservations

will be processed in the order that they are received. Reservation requests postmarked earlier than the twentieth day of the preceding month will be returned to the sender. Reservation of campsites will not be accepted by telephone. Walk-in reservations will be accepted beginning the first day of the current month for the current month and the first succeeding month. During the period from the Friday before Memorial Day through Labor Day an individual may reserve no more than ten campsites for use at the same time, and, may reserve campsites for no more than ten nights in each calendar month. Other state parks are subject to continuous occupancy rules provided for in WAC 352-32-030(6).

(2) Reservations for a specific campsite will not be guaranteed.

A refund of the first night's camping fee will be issued for any reservation which is not used, provided a cancellation request is made in person, by mail, or by telephone prior to 5:00 p.m. on the first day of the reservation. Campers will be declared no-show and, in addition to the nonrefundable reservation fee, will forfeit their reservation as well as the first night's camping fee if they have not cancelled and if the reservation is not claimed by 8:00 a.m. on the day after the confirmed arrival date.

(3) Campers who arrive at the park without a reservation may use unreserved campsites for up to ten consecutive nights during the period from ~~((May))~~ April 1 through September 30 ~~((and fifteen))~~. Provided that at the discretion of the park ranger the maximum stay may be extended to fourteen consecutive nights if the campground is not fully occupied. Campers may stay twenty consecutive nights during the period from October 1 through ~~((April 30))~~ March 31, beginning the day of arrival, on a first-come-first-served basis, without paying a reservation fee.

(4) Advance reservations will be available for groups of self-contained recreational vehicles in the Fort Worden State Park rally area. The group must have a minimum of ten recreational vehicles and may not exceed two hundred recreational vehicles. Rally area reservations may be made by contacting Fort Worden State Park.

AMENDATORY SECTION (Amending WSR 97-21-133, filed 10/21/97, effective 1/1/98)

**WAC 352-32-251 Limited income senior citizen, disability, and disabled veteran ~~((disability))~~ passes.**

(1)(a) Persons who are senior citizens, meet the eligibility requirements of RCW 43.51.055, and have been residents of Washington state for at least one year shall, upon application to the commission accompanied by either a copy of a federal income tax return filed for the previous calendar year, or a senior citizen property tax exemption pursuant to RCW 84.36.381, or a notarized affidavit of income on a form provided by the commission, receive a limited income senior citizen pass at no charge, which entitles the ~~((holder and the))~~ holder's camping ~~((unit))~~ party to free admission to any state park administered facility, free use of trailer dump stations, watercraft launch sites, and to a ~~((fifty))~~ 50 percent reduction in any campsite fees ~~((or))~~, moorage fees, or watertrail permit fees levied by the commission. Limited income senior citizen passes shall remain valid so long as the pass holder meets eligibility requirements.

(b) Proof submitted to the commission for the return of a senior citizen pass surrendered upon request to a commission employee who has reason to believe the user does not meet the eligibility criteria shall be the same as listed in subsections (1) and (5) of this section for original pass issuance.

(2) Persons who are permanently disabled, legally blind, or profoundly deaf, meet the eligibility requirements of RCW 43.51.055, and have been residents of Washington state for at least one year shall, upon application to the commission, receive a five year disability pass at no charge and ~~((other))~~ temporarily disabled persons who meet the eligibility requirements of RCW 43.51.055 and have been residents of Washington state for at least one year shall, upon application to the commission, receive a one year disability pass at no charge which entitles the ~~((holder and the))~~ holder's camping ~~((unit))~~ party to free admission to any state park administered facility, free use of trailer dump stations, watercraft launch sites, and to a ~~((fifty))~~ 50 percent reduction in any campsite fees ~~((or))~~, moorage fees, or watertrail permit fees levied by the commission.

(3) Persons who are veterans, meet the eligibility requirements of RCW 43.51.055, and have been residents of Washington state for at least one year shall, upon application to the commission, receive a lifetime disabled veteran ~~((disability))~~ pass at no charge which entitles the ~~((holder and the))~~ holder's camping ~~((unit))~~ party to free admission to any state park administered facility and to free use of any state park campsite, trailer dump station, watercraft launch site, ~~((or))~~ moorage facility, watertrail permit, and reservation service.

(4) Applications for limited income senior citizen, disability, and disabled veteran ~~((disability))~~ passes shall be made on forms prescribed by the commission.

(5) Verification of age shall be by original or copy of a birth certificate, notarized affidavit of age, witnessed statement of age, baptismal certificate, or driver's license. Verification of residency shall be by original or copy of a Washington state driver's license, voter's registration card, or senior citizen property tax exemption.

(6) For pass holders who travel by car or recreational vehicle ~~((or))~~, camping ~~((unit))~~ party shall include the pass holder and up to seven guests of the holder who travel with the holder and use one campsite or portion of a designated group camping or emergency area. One additional vehicle without built-in sleeping accommodations may be part of the camping ~~((unit))~~ party of a pass holder at one campsite or portion of a designated group camping or emergency area, when in the judgment of a ranger, the constructed facilities so warrant, and the total number of guests of the holder do not exceed seven.

(7) For pass holders who travel by a mode of transportation other than car or recreational vehicle ~~((or))~~, camping ~~((unit))~~ party shall include the pass holder and up to ~~((five))~~ seven guests who travel with the pass holder and use one campsite or portion of a designated group camping or emergency area.

(8) If the conditions of a pass holder change during the time period when a pass is valid such that a pass holder no longer meets the eligibility requirements of RCW 43.51.055 and WAC 352-32-251, ~~((then a))~~ the pass holder shall return a pass to the commission.

**AMENDATORY SECTION** (Amending WSR 95-22-067, filed 10/30/95, effective 1/1/96)

**WAC 352-32-252 Off-season senior citizen pass—Fee.** (1) Persons who are senior citizens, are at least sixty-two years of age, and have been residents of Washington state for at least one year shall, upon application to the commission, receive an off-season senior citizen pass which entitles the ~~((holder and the))~~ holder's camping ~~((unit))~~ party to camp at any camping areas made available by the commission, as well as use of agency mooring facilities, at no cost beyond the charges provided for in subsection (3) of this section, effective October 1 through March 31, and Sunday through Thursday nights in April as determined by the director and posted. Each such pass shall be valid only during one off-season period.

(2) Applications for off-season senior citizen passes shall be made on forms prescribed by the commission and shall be accepted only after August 1 for the following off-season period.

(3) There shall be a fee for each off-season senior citizen pass. Limited income senior citizen pass holders may purchase the off-season pass at a 50~~((%))~~ percent discount. A surcharge equal to the fee for an electrical hookup published by state parks shall be assessed for each night an off-season senior citizen pass holder uses a campsite with an electrical hookup.

(4) For pass holders who travel by car or recreational vehicle ~~((a))~~ camping ~~((unit))~~ party shall include the pass holder and up to seven guests of the holder who travel with the holder and use one campsite or portion of a designated group camping or emergency area. One additional vehicle without built-in sleeping accommodations may be part of the camping unit of a holder at one campsite or portion of a designated group camping or emergency area, when in the judgment of a ranger, the constructed facilities so warrant, and the total number of guests of the holder do not exceed seven.

(5) For pass holders who travel by a mode of transportation other than car or recreational vehicle ~~((a))~~ camping ~~((unit))~~ party shall include the pass holder and up to ~~((five))~~ seven guests who travel with the holder and use one campsite or portion of a designated group camping or emergency area.

(6) If a pass holder changes residency to a place outside Washington state during the time period when a pass is valid, the pass holder shall return the pass to the commission.

**AMENDATORY SECTION** (Amending WSR 96-19-031, filed 9/10/96, effective 10/31/96)

**WAC 352-32-300 Easement, franchise, license, and special use permit applications and fees.** (1) A party that desires to have a request for an easement, franchise, license, or special use permit considered by the commission shall submit an application on a form provided by the director to the:

Washington State Parks and  
Recreation Commission  
7150 Cleanwater Lane  
P.O. Box 42650  
Olympia, WA 98504-2650

Each application from a party other than a government agency shall be accompanied by a nonrefundable application fee according to a schedule adopted by the commission.

A party shall pay the commission processing and use fees as apply according to a schedule adopted by the commission.

A party shall pay the commission for any appraisal, appraisal review, and survey costs incurred by the commission during the consideration of an application for an easement, franchise, license, or special use permit. The amount of any appraisal, appraisal review, and survey costs shall be determined by the director or ~~((the))~~ designee ~~((of the director))~~.

An application fee and any processing fees, use fees, and appraisal, appraisal review, and survey payments shall be submitted to the commission at the address listed above and shall be in the form of a check or money order payable to the Washington state parks and recreation commission.

(2) The application fee, processing fee, use fee, and the appraisal, appraisal review, and survey payments established by subsection (1) of this section may be waived by the director or ~~((the))~~ designee ~~((of the director))~~ when the director or ~~((the))~~ designee determines that the action authorized by an easement, franchise, license, or special use permit will be of benefit to the general public, if approved by the commission.

**AMENDATORY SECTION** (Amending WSR 96-22-018, filed 10/29/96, effective 1/1/97)

**WAC 352-32-330 Commercial recreation providers—Permits.** (1) ~~((Effective January 1, 1997,))~~ Commercial recreation providers are required to register in order to engage in commercial recreational use of state parks. Effective January 1, 1998, commercial recreation providers are required to register and possess a commercial recreation provider permit in order to engage in commercial recreational use of state parks. Registration for commercial recreation provider permits requires completion of application forms, providing proof of insurance and paying the appropriate fees. The commission shall establish the permit and registration fees and the director shall set the amount of the fees.

(2) Except as provided in WAC 352-32-310, any violation of this section is an infraction under chapter 7.84 RCW.

**WSR 98-04-080**  
**PERMANENT RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Order 98-01—Filed February 4, 1998, 10:58 a.m.]

Date of Adoption: February 4, 1998.

Purpose: The purpose of this rule is to communicate to school districts and the general public concerning allocation

PERMANENT

rates, conditions on receipt of moneys, and reporting requirement of local enhancement funding.

Statutory Authority for Adoption: 1997-1999 State Operating Appropriation Act.

Adopted under notice filed as WSR 97-20-093 on September 29, 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 19, 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 19, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 19, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 4, 1998  
Dr. Terry Bergeson  
Superintendent of  
Public Instruction

#### 1997-99 LOCAL ENHANCEMENT FUNDS

##### NEW SECTION

**WAC 392-140-800 1997-99 Local enhancement funds—Applicable provisions.** WAC 392-140-800 through 392-140-836 apply to the distribution of moneys to school districts for local educational enhancement including the administration of learning improvement allocations pursuant to the 1997-99 State Operating Appropriations Act.

##### NEW SECTION

**WAC 392-140-802 1997-99 Local enhancement funds—Definition—Learning improvement allocations.** As used in WAC 392-140-800 through 392-140-836 learning improvement allocations means that portion of total local enhancement funds which is allocated to school districts to enhance the ability of instructional staff to teach and assess the essential academic learning requirements for reading, writing, communication, and math in accordance with the timelines and requirements established under RCW 28A.630.885; as well as to provide special emphasis to the successful teaching of reading.

##### NEW SECTION

**WAC 392-140-804 1997-99 Local enhancement funds—Definition—Local education program enhancement.** As used in WAC 392-140-800 through 392-140-836 local education program enhancement means that portion of total local enhancement funds which is allocated to school districts to meet educational needs as identified by the school district, including alternative education programs.

##### NEW SECTION

**WAC 392-140-806 1997-99 Local enhancement funds—Definition—Essential academic learning requirements.** As used in WAC 392-140-800 through 392-140-836, the essential academic learning requirements means those specific academic and technical skills and knowledge based on the student learning goals set forth in RCW 28A.630.885 (3)(a) and adopted by the commission on student learning. Such requirements shall not limit the instructional strategies used by schools or school districts or require the use of specific curricula.

##### NEW SECTION

**WAC 392-140-808 1997-99 Local enhancement funds—Definition—Assessment system.** As used in WAC 392-140-800 through 392-140-836, assessment system means a series of assessments pursuant to RCW 28A.630.885 used to determine if students have successfully learned the essential academic learning requirements as developed by the commission on student learning.

##### NEW SECTION

**WAC 392-140-810 1997-99 Local enhancement funds—Definition—School year.** As used in WAC 392-140-800 through 392-140-836 "school year" means the period beginning September 1 and ending the following August 31.

##### NEW SECTION

**WAC 392-140-812 1997-99 Local enhancement funds—Definition—School district.** As used in WAC 392-140-800 through 392-140-836 "school district" means the same as defined in WAC 392-140-069.

##### NEW SECTION

**WAC 392-140-814 1997-99 Local enhancement funds—Definition—Student learning improvement plan.** As used in WAC 392-140-800 through 392-140-836, student learning improvement plan means a written document developed and kept on file at each building that delineates how the learning improvement allocation will be used to achieve the student learning goals, essential academic learning requirements, and implement the assessment system.

##### NEW SECTION

**WAC 392-140-816 1997-99 Local enhancement funds—Definition—Annual performance report.** As used in WAC 392-140-800 through 392-140-836, the annual performance report means that report referenced in RCW 28A.320.205 which requires each school to annually publish and deliver such report to each parent with children enrolled in the school and to make the report available to the community served by the school.

NEW SECTION

**WAC 392-140-818 1997-99 Local enhancement funds—Definition—Enrolled as a Medicaid service provider.** Enrolled as a Medicaid service provider means having applied for and received a core provider agreement number pursuant to WAC 388-87-007 from the department of social and health services, medical assistance administration, office of provider services.

NEW SECTION

**WAC 392-140-820 1997-99 Local enhancement funds—Actively pursuing federal matching funds for medical services provided through special education programs.** The superintendent of public instruction shall find that a district is actively pursuing federal matching funds if the district is enrolled as a Medicaid service provider, and:

(1) That the district is billing for Medicaid eligible services provided to Medicaid eligible students in its special education program conducted pursuant to chapter 392-171 WAC; or

(2) That the district participates in a special education cooperative and the serving district(s) is billing for all Medicaid eligible services provided to all Medicaid eligible students in the cooperative; or

(3) That the Medicaid eligibility of the students enrolled in special education programs has been verified and none of the district's students enrolled in the district's special education program are eligible for Medicaid; or

(4) That the school district does not have any students needing special education.

NEW SECTION

**WAC 392-140-822 1997-99 Local enhancement funds—Filing truancy petitions as required under RCW 28A.225.030.** The superintendent of public instruction shall find that a district is properly filing truancy petitions if the district:

(1) Files petitions and supporting affidavits for civil actions with the juvenile court not later than the seventh unexcused absence by any child within any month during the current school year or not later than the tenth unexcused absence during the current school year; or

(2) Does not have any students for whom it is necessary to file petitions under RCW 28A.225.030.

NEW SECTION

**WAC 392-140-824 1997-99 Local enhancement funds—Conditions on receipt of moneys.** School districts shall comply with the following conditions in order to receive local enhancement funds:

(1) Receipt by a school district of one-fourth of the district's local enhancement funds allocation shall be conditioned on a finding by the superintendent of public instruction that:

(a) The school district is enrolled as a Medicaid service provider;

(b) The school district is actively pursuing federal matching funds for medical services provided through special education programs, pursuant to chapter 149, Laws of 1993,

during the school year in which local enhancement funds are received; and

(c) The district is filing truancy petitions as required under RCW 28A.225.030.

(2) For receipt by a school district of learning improvement allocations the district shall maintain a policy regarding the involvement of school staff, parents, and community members in instructional decisions.

NEW SECTION

**WAC 392-140-826 1997-99 Local enhancement funds—Definition—Allocation enrollment.** As used in WAC 392-140-800 through 392-140-836, "allocation enrollment" means the school district's annual average full-time equivalent students as defined in WAC 392-121-133 plus running start enrollment except in the following cases:

(1) For a school district enrolling less than one hundred annual average full-time equivalent students, allocation enrollment means the sum of the following:

(a) The greater of sixty or the annual average full-time equivalent students enrolled in kindergarten through sixth grade;

(b) The greater of twenty or the annual average full-time equivalent students enrolled in seventh through eighth grade; and

(c) The greater of sixty or the annual average full-time equivalent students enrolled in ninth through twelfth grade.

(2) For a school district operating small school plants designated remote and necessary, allocation enrollment means the sum of the following:

(a) The school district's annual average full-time equivalent enrollment as defined in WAC 392-121-133 plus running start enrollment minus the annual average full-time equivalent enrollment in the small school plants designated remote and necessary; plus

(b) For the small school plant designated remote and necessary:

(i) The greater of sixty or the annual average full-time equivalent students enrolled in kindergarten through sixth grade;

(ii) The greater of twenty or the annual average full-time equivalent students enrolled in seventh through eighth grade; and

(iii) The greater of sixty or the annual average full-time equivalent students enrolled in ninth through twelfth grade.

NEW SECTION

**WAC 392-140-828 1997-99 Local enhancement funds—Allocation of moneys.** From moneys appropriated by the legislature for local educational enhancement, the superintendent of public instruction shall apportion money to each eligible school district as follows:

(1) The learning improvement allocation for a school year for districts meeting the conditions on receipt of moneys in WAC 392-140-824 (1) and (2) shall equal the school district's allocation enrollment times a uniform state-wide rate of up to:

(a) \$36.69 for annual average full-time equivalent students enrolled in grades K-4;

(b) \$30.00 for annual average full-time equivalent students enrolled in grades 5-7; and

(c) \$22.95 for annual average full-time equivalent students enrolled in grades 8-12.

(2) The learning improvement allocation for a school year for districts not meeting the conditions on receipt of moneys in WAC 392-140-824(1) shall equal the school district's allocation enrollment times a uniform state-wide rate of up to:

(a) \$27.52 for annual average full-time equivalent students enrolled in grades K-4;

(b) \$22.50 for annual average full-time equivalent students enrolled in grades 5-7; and

(c) \$17.21 for annual average full-time equivalent students enrolled in grades 8-12.

(3) The school district's local education program enhancement allocation for a school year shall equal the school district's allocation enrollment times a uniform state-wide rate of up to either \$29.86 for school districts meeting the conditions on receipt of moneys in WAC 392-140-824(1) or \$22.40 for districts not meeting the conditions on receipt of moneys in WAC 392-140-824(1).

(4) The school district's learning improvement allocation shall be paid to the school district in accordance with the apportionment schedule and procedures set forth in RCW 28A.510.250 and WAC 392-121-400.

(5) The school district's local education program enhancement allocation shall be paid to the school district in accordance with the apportionment schedule and procedures set forth in RCW 28A.510.250 and WAC 392-121-400.

#### NEW SECTION

**WAC 392-140-830 1997-99 Local enhancement funds—Allocations of moneys for remote and necessary schools and school districts enrolling fewer than one-hundred annual average full-time equivalent students.** In calculating the allocation of moneys for remote and necessary schools and school districts enrolling fewer than one-hundred annual average full-time equivalent students, the uniform state-wide rate specified for grade groups in WAC 392-140-828 shall be applied proportionately to the grade groups indicated in WAC 392-140-826 for such schools and districts.

#### NEW SECTION

**WAC 392-140-832 1997-99 Local enhancement funds—Allocation of moneys—A distribution formula to districts.** The uniform state-wide allocation rates set forth in WAC 392-140-828 shall be used by the superintendent of public instruction to distribute local enhancement funds to school districts. The districts shall have discretion concerning how the funds are distributed to buildings within the district and are not required to use the allocation rates in WAC 392-140-828 as an expenditure rate; provided however, that the district shall expend the allocations in accordance with the purposes, conditions, and limitations set forth in WAC 392-140-834.

#### NEW SECTION

**WAC 392-140-834 1997-99 Local enhancement funds—Conditions and limitations on expenditures.** Expenditure of moneys allocated pursuant to WAC 392-140-800 through 392-140-836 is subject to the following conditions and limitations.

(1) The learning improvement allocations pursuant to WAC 392-140-828 (1) and (2) shall:

(a) Be expended by school districts to enhance the ability of instructional staff to teach and assess the essential academic learning requirements for reading, writing, communication, and math in accordance with the timelines and requirements established under RCW 28A.630.885; and

(b) Give special emphasis to the successful teaching of reading.

(2) Each building planning team in a district shall develop and keep on file a student learning improvement plan to achieve the student learning goals and essential academic learning requirements and to implement the assessment system as it is developed. The plan shall delineate how the learning improvement allocations will accomplish the learning goals, the essential academic learning requirements, and the assessment system and shall be made available to the public upon request.

(3) The local education program enhancement allocation pursuant to WAC 392-140-828(3) may be expended to meet educational needs identified by the district, including alternative education programs.

(4) The school district shall account for the expenditures of the learning improvement allocation and the local education program enhancement allocation separately in expenditure Program 75, Local Education Program Enhancement.

(5) The 1997-98 student learning improvement allocation may be expended beginning July 1, 1997. Expenditure of these allocations shall end on August 31, 1998, for the first period of the biennium and on August 31, 1999, for the second period.

(6) The local educational program enhancement allocation shall be expended during the period beginning September 1 and ending on or before August 31 of the school year.

(7) The school district shall report to the superintendent of public instruction as provided in WAC 392-140-836.

#### NEW SECTION

**WAC 392-140-836 1997-99 Local enhancement funds—School district reporting.** School districts receiving local enhancement funds shall comply with the following reporting requirements:

(1) Provide parents and the local community with specific information in the annual performance report required in RCW 28A.320.205 on the expenditure of the learning improvement allocations and the results achieved.

(2) File a report by October 1, 1998, and October 1, 1999, with the office of superintendent of public instruction in a format developed by the superintendent of public instruction that:

(a) Enumerates the activities funded by these allocations and specifies the amount expended for each activity; and

(b) Describes how the activity improved the understanding, teaching, and assessment of the essential academic learning requirements by instructional staff; and



(c) Identifies any amounts expended from this allocation for supplemental contracts.

(3) File a report by October 1, 1998, and October 1, 1999, in a format prescribed by the superintendent of public instruction that contains such data as direct expenditures concerning the school year local educational program enhancement allocations.

**WSR 98-04-086**  
**PERMANENT RULES**  
**DEPARTMENT OF CORRECTIONS**  
 [Filed February 4, 1998, 11:45 a.m.]

Date of Adoption: February 4, 1998.

Purpose: To clarify and confirm that offenders may be subject to criminal prosecution for persistent prison misbehavior under RCW 9.94.070.

Citation of Existing Rules Affected by this Order: Amending chapter 137-28 WAC.

Statutory Authority for Adoption: RCW 72.09.130, 72.01.090, 9.94.070.

Adopted under notice filed as WSR 98-01-152 on December 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 2, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
 February 4, 1998  
 Joseph D. Lehman  
 Secretary

**AMENDATORY SECTION** (Amending WSR 95-15-044, filed 7/13/95, effective 8/15/95)

**WAC 137-28-150 Authority.** The authority for this chapter is RCW 72.01.090, RCW 72.09.130, and RCW 9.94.070.

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 95-15-044, filed 7/13/95, effective 8/15/95)

**WAC 137-28-190 Reporting to law enforcement authorities.** (1) The superintendent shall report any felony under state or federal law to law enforcement authorities.

(2) When an offender knowingly commits an additional serious infraction after losing all potential earned early release time credits, the Superintendent will report that offender to local law enforcement authorities for possible felony prosecution under RCW 9.94.070.

~~((2))~~ (3) If a violation has been reported to law enforcement authorities, inmates who have been charged with an infraction shall not be questioned about the incident outside of a formal disciplinary hearing or an administrative segregation hearing until after it has been determined that no prosecution will occur or until a finding of guilty is made.

~~((3))~~ (4) No provisions of these rules shall prevent the administrative segregation of any inmate.

**WSR 98-04-093**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Filed February 4, 1998, 11:52 a.m., effective June 1, 1998]

Date of Adoption: January 31, 1998.

Purpose: Establish a commodity commission to represent canola and rapeseed growers in the state of Washington. The commission will have the authority to collect assessments on canola and rapeseed produced in the state of Washington to fund programs in advertising and promotion, research, public information and take necessary action to prevent unfair trade practices.

Statutory Authority for Adoption: Chapter 15.65 RCW. Adopted under notice filed as WSR 97-19-002 on September 3, 1997.

Changes Other than Editing from Proposed to Adopted Version: Effective date of the commission and dates for the initial board members terms of office changed from June 1997 to June 1998.

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 9, 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 9, amended 0, repealed 0.

Effective Date of Rule: June 1, 1998.  
 January 31, 1998  
 Jim Jesernig  
 Director

**Chapter 16-573 WAC**  
**CANOLA AND RAPESEED COMMISSION**

PERMANENT

NEW SECTION

**WAC 16-573-010 Definitions of terms.** For the purpose of this marketing order:

(1) "Director" means the director of agriculture of the state of Washington or the director's duly appointed representative.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Act" means the Washington State Agriculture Enabling Act of 1961 or chapter 15.65 RCW.

(4) "Person" means any person, firm, association or corporation.

(5) "Affected producer" means any person who produces, or causes to be produced, in commercial quantities, canola or rapeseed, or both in the state of Washington.

(6) "Commercial quantity" means all the canola or rapeseed produced for market in any calendar year by any producer.

(7) "Affected handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing or distributing canola or rapeseed not produced by the handler and includes any lending agencies for a commodity credit corporation loan to producers.

(8) "Canola and rapeseed commodity board" referred to as "board" means the canola and rapeseed commodity board formed under WAC 16-573-020.

(9) "Canola or rapeseed" or "canola and rapeseed" means *Brassica Sp.* oilseeds, produced for use as oil, meal, planting seed, condiment, or other industrial or chemurgic uses, and includes mustard.

(10) "Marketing season" or "fiscal year" means the twelve-month period beginning on June 1 of any year and ending with the last day of May, both dates being inclusive.

(11) "Producer-handler" is both a "producer" and a "handler" with respect to canola and rapeseed and is covered by this order as a producer when engaged in the business of producing canola or rapeseed or a handler when engaged in processing, selling, marketing or distributing canola or rapeseed.

(12) "Affected area" means the following counties located in the state of Washington: Adams, Asotin, Benton, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Klickitat, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima.

(13) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

(14) "Affected unit" means one hundred pounds (hundredweight) of canola or rapeseed, or both.

NEW SECTION**WAC 16-573-020 The canola and rapeseed board.**

(1) **Administration.** The provisions of this order and the applicable provisions of the act is administered and enforced by the board as the designee of the director.

**(2) Board membership.**

(a) The board shall consist of eight members. Six members must be affected producers elected under provisions of this order. One member must be an affected handler appointed by the elected producers. The director shall appoint one member of the board who is neither an

affected producer nor an affected handler to represent the department and the public.

(b) For the purpose of nomination and election of producer members of the board, the affected area of the state of Washington is divided into three representative districts as follows:

(i) District I must have two board members, being positions one and two and include the counties of Adams, Benton, Douglas, Franklin, Grant, Klickitat, Lincoln, and Yakima.

(ii) District II must have two board members, being positions three and four and include the counties of Ferry, Pend Oreille, Spokane, and Stevens.

(iii) District III must have two board members being positions five and six and include the counties of Asotin, Columbia, Garfield, Walla Walla, and Whitman.

(iv) The handler appointed by the elected producers will be position seven.

**(3) Board membership qualifications.**

(a) The affected producer members of the board must be practical producers of canola or rapeseed in the district in and for which they are nominated and elected and must be citizens and residents of the state of Washington, over the age of twenty-five years, each of whom is and has been actually engaged in producing canola or rapeseed within the state of Washington for a period of five years and has during that time derived a substantial portion of their income therefrom and who is not engaged in business as a handler or other dealer.

(b) The affected handler member of the board must be a practical handler of canola or rapeseed and must be a citizen and resident of the state of Washington, over the age of twenty-five years and who is and has been, either individually or as an officer or an employee of a corporation, firm, partnership association or cooperative actually engaged in handling canola or rapeseed within the state of Washington for a period of five years and has during that period derived a substantial portion of their income therefrom.

(c) The qualifications of members of the board must continue during their term of office.

**(4) Term of office.**

(a) The term of office for members of the board is three years, and one-third of the membership as nearly as possible must be elected each year.

(b) Membership positions on the board are designated numerically; affected producers will have positions one through six, the affected handler will have position seven and the member appointed by the director will have position eight.

(c) The term of office for the initial board members must be as follows:

Positions one and three - one year, ending on May 31, 1999;

Positions two and five - two years, ending on May 31, 2000;

Positions four, six and seven - three years, ending on May 31, 2001.

(d) No elected producer member of the board can serve more than two full consecutive three-year terms.

**(5) Nomination and election of board members.**

(a) Each year the director shall call for nomination meetings in those districts whose board members term is

about to expire. The meetings must be held at least thirty days in advance of the date set by the director for the election of board members. Notice of every meeting must be published in newspapers of general circulation within the affected district at least ten days in advance of the date of the meeting and in addition, written notice of every meeting must be given to all affected producers within the affected district according to the list maintained by the director under RCW 15.65.200 of the act. Nonreceipt of notice by any interested person will not invalidate the proceedings at the nomination meeting. Any qualified affected producer may be nominated orally for membership on the board at the nomination meetings. Nominations may also be made within five days after the meeting by written petition filed with the director, signed by at least five affected producers. At the inception of this order, nominations may be made at the issuance hearing.

(b) If the board moves and the director approves that the nomination meeting procedure be deleted, the director shall give notice of the vacancy by mail to all affected producers. Nominating petitions for producers must be signed by at least five affected producers of the district from which the candidate will be elected. The final date for filing nominations must be at least twenty days after the notice was mailed.

**(6) Election of board members.**

(a) Members of the board must be elected by secret mail ballot within the month of April under the supervision of the director. Affected producer members of the board must be elected by a majority of the votes cast by the affected producers within the affected district. Each affected producer is entitled to one vote.

(b) If a nominee does not receive a majority of the votes on the first ballot a runoff election must be held by mail in a similar manner between the two candidates for the position receiving the largest number of votes.

(c) Notice of every election for board membership must be published in a newspaper of general circulation within the affected district at least ten days in advance of the date of the election. At least ten days before every election for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears upon the list of the affected producers maintained by the director in accordance with RCW 15.65.200 of the act. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing their qualifications. Nonreceipt of a ballot by an affected producer will not invalidate the election of any board member.

(d) The appointed handler member of the initial board shall be elected by a majority of the elected members at the first meeting.

(7) **Vacancies prior to election.** In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.

(8) **Quorum.** A majority of the members is a quorum for the transaction of all business and to execute the duties of the board.

(9) **Board compensation.** No member of the board will receive any salary or other compensation, but each member may be compensated for each day in actual attendance at or traveling to and from meetings of the board or on special

assignment for the board, in accordance with RCW 43.03.230 together with travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chair and other officers as the board deems advisable.

(c) To employ and discharge at its discretion the personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to execute the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. The expenses and costs may be paid by check, draft or voucher in the form and the manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director to defray the costs of formulating the order.

(f) To establish a "canola and rapeseed board marketing revolving fund" and to deposit the fund in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done under this order. The records, books and accounts must be audited at least annually subject to procedures and methods lawfully prescribed by the state auditor. The books and accounts must be closed as of the last day of each fiscal year of the state of Washington. A copy of the audit shall be delivered within thirty days after completion to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board may deem necessary. The premium for the bond or bonds must be paid by the board from assessments collected. The bond may not be necessary if any board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year.

(j) To establish by resolution a headquarters which shall continue unless changed by the board. All records, books and minutes of board meetings must be kept at the headquarters.

(k) To adopt rules of a technical or administrative nature, under chapter 34.05 RCW (Administrative Procedure Act).

(l) To execute RCW 15.65.510 covering the obtaining of information necessary to effectuate the order and the act,

along with the necessary authority and procedure for obtaining the information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States to obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To execute any other grant of authority or duty provided designees and not specifically set forth in this section.

**(11) Procedures for board.**

(a) The board shall hold regular meetings, at least quarterly, with the time and date fixed by resolution of the board and held in accordance with chapter 42.30 RCW (Open Public Meetings Act).

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget must be presented for discussion at the meeting. Notice of the annual meeting must be given by the board at least ten days prior to the meeting by written notice to each producer and by notifying the regular news media.

(c) The board shall establish by resolution the time, place, and manner of calling special meetings of the board with reasonable notice to the members. The notice of any special meeting may be waived by a written waiver from each member of the board.

**NEW SECTION**

**WAC 16-573-030 Marketing order purposes.** The order is to promote the general welfare of the state, to enable producers of canola and rapeseed to help themselves establish orderly, fair, sound, efficient, unhampered marketing, grading and standardization of canola or rapeseed, or both. To execute the purposes of the order, the board shall provide for a program in one or more of the following areas:

(1) Establish plans and conduct programs for advertising, sales, promotion or other programs for maintaining present markets or creating new or larger markets for canola or rapeseed, or both. The programs shall be directed toward increasing the sale of canola and rapeseed without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims in behalf of canola or rapeseed nor disparage the quality, value, sale or use of any other agricultural commodity.

(2) Provide for research in the production, processing or distribution of canola and rapeseed and expend the necessary funds for the purposes. Insofar as practicable, the research must be carried out by experiment stations of Washington State University, but if in the judgment of the board that the experiment stations do not have adequate facilities for a particular project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

(3) Provide by rules for:

(a) Establishing uniform grades and standards of quality, condition, maturity, size, weight, pack, packages and, or label for canola and rapeseed or any products thereof;

(b) Requiring producers, handlers or other persons to conform to the grades and, or standards in packing, packaging, processing, labeling, selling or otherwise commercially disposing of canola or rapeseed in offering, advertising and delivering it therefor;

(c) Providing for inspection and enforcement to ascertain and effectuate compliance;

(d) Establishing rules respecting the foregoing;

(e) Providing that the board shall execute inspection and enforcement of, and may (within the general provisions of the order) establish detailed provisions relating to, the standards and grades and the rules. Any modification not of a substantial nature, such as the modification of standards within a certain grade may be made without a hearing and shall not be considered an amendment for the purposes of the act and order.

(4) Provide for the prevention, modification or removal of trade barriers which obstruct the free flow of the affected commodity to market.

(5) Provide for marketing information and services to affected producers and for the verification of grades, standards, weights, tests and sampling of quality and quantity of canola and rapeseed purchased by handlers from affected producers.

(6) Prohibit making or publishing false or misleading advertising. The regulation may authorize uniform trade practices applicable to all similarly situated handlers and, or other persons.

**NEW SECTION**

**WAC 16-573-040 Assessments and collections. (1) Assessments.**

(a) The assessment on all varieties of canola or rapeseed subject to this marketing order shall be ten cents per hundredweight and shall be deducted by the first purchaser from the price paid to the grower. The assessment shall be remitted to the board in accordance with procedures adopted by the board.

(b) The assessments shall not be payable on any canola or rapeseed used by the affected producer on their premises for feed, seed and personal consumption.

(2) **Collections.** Excess moneys collected by the board under the order during the fiscal year may be carried over and used during the next successive fiscal year. The board may also recommend that excess moneys at the close of a fiscal year be refunded on a pro rata basis to the affected producers from whom the moneys were collected.

(3) **Penalties.** Any due and payable assessment levied in the specified amount as may be determined by the board under the act and the order is a personal debt of the person assessed or who owes the debt, and it is due and payable to the board when payment is called for by the board. If a person fails to pay the board the full amount of the assessment by the date due, the board may add to the unpaid assessment or sum an amount not exceeding ten percent of the amount owed. In the event of failure of the person or persons to pay the full amount due, the board may bring a civil action against the person or persons in a state court of

competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

#### NEW SECTION

**WAC 16-573-041 Time—Place—Method for payment and collection of assessments.** Effective with the growing season of 1998, the following procedure is established for the reporting and paying of assessments levied pursuant to RCW 15.65.410 and WAC 16-573-040:

(1) All first handlers of canola and rapeseed grown in the state of Washington, or the person acting on behalf of a first buyer, shall withhold the amount of assessment from their remittance to growers of canola or rapeseed and transmit it to the board.

(2) All assessments will be due and payable to the board within thirty days of collection. With the submission of the assessments, a report listing the name, address, volume handled or purchased and amount deducted or collected for each producer must be submitted to the board on forms provided by or approved by the board.

(3) Any assessments paid after the above deadlines shall be accompanied by a penalty fee of ten percent in accordance with RCW 15.65.440 of the act.

#### NEW SECTION

**WAC 16-573-050 Obligations of the board.** Obligations incurred by the board or employee or agent pertaining to their performance or nonperformance or misperformance of any matters or things authorized, required or permitted them by the act or this order, and any other liabilities or claims against them or any of them shall be enforced in the same manner as if the whole organization under the order were a corporation. No liability for the debts or actions of the board, employee or agent incurred in their official capacity under this order shall exist either against the board, officers, employees or agents in their individual capacity, nor against the state of Washington or any subdivision or instrumentality thereof nor against any other organization, administrator or board (or employee or agent) established under this act or the assets thereof. The board, and its agents and employees, shall not be held responsible individually in any way whatever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person or employee, except for their own individual acts of dishonesty or crime. No person or employee shall be held responsible individually for any act or omission of any other board, member of the board, or other person. The liability of the members of the board shall be several and not joint and no member shall be liable for the default of any other member.

#### NEW SECTION

**WAC 16-573-060 Termination of the order.** The order shall be terminated if the director finds that fifty-one percent by numbers and fifty-one percent by volume of production of the affected producers favor or assent to the dissolution. The director may ascertain without compliance with RCW 15.65.050 through 15.65.130 of the act whether

the termination is so assented to or favored whenever twenty percent by numbers or twenty percent by volume of production of the affected producers file written application with the director for the termination. The termination shall not, however, become effective until the expiration of the marketing season.

#### NEW SECTION

**WAC 16-573-070 Effective time.** (1) This marketing order for canola and rapeseed shall become effective after May 31, 1998.

(2) This order shall remain in full force and effect until May 31, 2003, unless terminated before under chapter 15.65 RCW as set forth in WAC 16-536-060. If the order remains in effect until May 31, 2003, the director shall conduct a referendum election as required for the approval of an order under chapter 15.65 RCW at a time before that date to determine if the affected producers desire that the order be terminated on that date or continued in full force and effect beyond the date. All the costs of conducting the election shall be defrayed from the funds of the board.

#### NEW SECTION

**WAC 16-573-080 Separability.** If any provisions of the order are declared invalid, or the applicability to any person, circumstances or thing is held invalid, the validity of the remainder provisions or of the applicability to any other person, circumstances or thing shall not be affected.



**WSR 98-04-006  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 98-06—Filed January 22, 1998, 4:55 p.m.]

Date of Adoption: January 9, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-32-05700X; 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. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 9, 1998  
Bern Shanks  
Director

**NEW SECTION**

**WAC 220-32-05700X 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 using set line gear effective immediately through January 31, 1998.

(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 effective 12:01 a.m. February 1, 1998:

**WAC 220-32-05700X** Columbia River sturgeon seasons above Bonneville.

**WSR 98-04-010  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 98-09—Filed January 23, 1998, 3:09 p.m.]

Date of Adoption: January 22, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-52-07300Y; and amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of green sea urchins exist in the areas described. Prohibition of all diving within two days of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding

the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 22, 1998

Evan Jacoby

for Bern Shanks

Director

### NEW SECTION

**WAC 220-52-07300Z Sea urchins** Notwithstanding the provisions of WAC 220-52-073, effective immediately until further notice it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Green sea urchins: Sea Urchin Districts 1, 2 and Marine Fish/Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, are open only on January 26 and 27, 1998. Sea Urchin District 3 and 4 are open only on January 26, 27, and 28, 1998. The minimum size for green sea urchins is 2.25 inches in diameter exclusive of the spines.

(2) Sea Urchin Districts:

(a) Sea Urchin District 1 (Northern San Juan Islands) is defined as Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, and those waters of Area 22A north of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and west of a line projected true north from Limestone Point on San Juan Island.

(b) Sea Urchin District 2 (Southern San Juans and Port Townsend) is defined as those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and east of a line projected true north from Limestone Point on San Juan Island, and Areas 21A, 21B, 22B, 23A, 23B, 25A, and 25B. The following areas within Sea Urchin District 2 are closed to the harvest of sea urchins at all times.

(i) Those waters of Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(ii) Those waters of San Juan Channel and Upright Channel within the following lines: north of a line from Cattle Point on San Juan Island to Davis Point on Lopez

Island, south of a line projected from Flat Point on Lopez Island true west to Shaw Island, west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island, and south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island.

(3) It is unlawful to dive for any purpose from a commercially-licensed fishing vessel, except vessels actively fishing geoducks under contract with the Washington Department of Natural Resources, on January 24 and 25, 1998.

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07300Y Sea urchin (98-07)

### **WSR 98-04-018**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF ECOLOGY**

[Order 98-01—Filed January 28, 1998, 8:05 a.m.]

Date of Adoption: January 23, 1998.

Purpose: To extend existing emergency rule, WSR 97-21-073, for processing certain water right or application for change or transfer of water rights. Proposal for permanent rule making was filed on August 19, 1997, as WSR 97-17-081. The intended adoption date for the permanent rule has been changed to February 18, 1998, by filing a continuance.

Statutory Authority for Adoption: RCW 43.21A.064(8) and 43.27A.090(11).

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 Superior Court of the state of Washington for Kittitas County ordered the Department of Ecology not to engage in any investigating or processing of pending ground water applications until appropriate rule making is completed. To prevent a state agency from conducting normal business will cause confusion and a situation that is not in the public interest. This rule will allow the Department of Ecology to issue decisions on certain pending applications while permanent rule making is completed.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 6, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 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 6, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 23, 1998  
Tom Fitzsimmons  
Director

### NEW SECTION

**WAC 173-152-010 Purpose.** This rule establishes the framework under which the department can provide for the orderly organization of its work, prioritize investigations of water right applications by geographic areas, and establish criteria for priority processing of applications for new water rights or applications for change or transfer of existing water rights.

### NEW SECTION

**WAC 173-152-020 Definitions.** For the purposes of this chapter the following definitions apply:

- (1) "Department" means the department of ecology.
- (2) "Public water system" means a water supply system as defined in RCW 70.119A.020.
- (3) "Applications to change or transfer" means applications made under RCW 90.03.380 or 90.44.100.
- (4) "Competing applications" means all existing applications for water right from the same water source, whether for a new water right or for a change or transfer of an existing water right.
- (5) "Same water source" or "source of water" means a surface water body, including a stream, stream system, lake, or reservoir and any spring water or underground water that is part of or tributary to the surface water body, that the department determines to be an independent water body for the purposes of water right administration.

### NEW SECTION

**WAC 173-152-025 Organization and management of workload.** (1) The department may establish regions and maintain regional offices or field offices for the purposes of maximizing the efficiency of its work. Regional offices and their geographic jurisdictions are as follows:

- (a) Northwest regional office serving Whatcom, Skagit, Snohomish, San Juan, Island, King, and Kitsap counties;
  - (b) Southwest regional office serving Pierce, Thurston, Mason, Clallam, Jefferson, Grays Harbor, Pacific, Lewis, Cowlitz, Wahkiakum, Clark, and Skamania counties;
  - (c) Central regional office serving Okanogan, Chelan, Douglas, Kittitas, Yakima, Benton, and Klickitat counties; and
  - (d) Eastern regional office serving Ferry, Stevens, Pend Oreille, Grant, Lincoln, Spokane, Adams, Whitman, Franklin, Walla Walla, Columbia, Garfield, and Asotin counties.
- (2) The department will make decisions on new water right applications or applications for change or transfer of an existing water right within a region or within a regional or field office's geographic area by the date the application was received except as provided for in subsection (3) of this section and WAC 173-152-040.

(3) The department may, based on the criteria identified in subsection (4) of this section, conduct an investigation and make decisions on one or more water right applications for the use of water from the same water source. When numerous applications for water from the same water source are being investigated, the final decisions will be made in the order in which the applications were received. Each application will be considered individually under the requirements of RCW 90.03.290.

(4) The department may select a water source for investigation of water right applications based on one or more of the following conditions related to the water source:

- (a) The number and age of pending applications, and the quantity of water requested;
- (b) The ability to efficiently investigate applications because of the availability of data related to water supply and future needs, streamflow needs for instream values, and hydrogeology of the basin;
- (c) Risk of multiple applications impairing senior rights including both diversionary and instream flow rights;
- (d) Implementation of water resource plans; and/or
- (e) The projected population and economic growth in the area.

### NEW SECTION

**WAC 173-152-040 Criteria for priority processing of competing applications.** (1) An application may be processed prior to competing applications if the application resolves or alleviates a public health or safety emergency caused by a failing public water supply system currently providing potable water to existing users. The inability of any public water system to accommodate future population growth or other future uses does not constitute a public health or safety emergency. The application must be filed specifically to correct the actual or anticipated cause(s) of the public water system failure. To be considered a failing public water system, the system must meet one or more of the following conditions:

- (a) The department, upon notification by and in consultation with the department of health or local health authority, determines a public water system has failed, or is in danger of failing within one year, to meet state board of health standards for the delivery of potable water to existing users in adequate quantity or quality to meet basic human drinking, cooking and sanitation needs.
  - (b) The current water source has failed or will fail so the public water system is or will become incapable of exercising its existing water right to meet existing needs for drinking, cooking and sanitation purposes after all reasonable conservation efforts have been implemented; or
  - (c) A change in source is required to meet drinking water quality standards and avoid unreasonable treatment costs, or the state department of health determines that the existing source of supply is unacceptable for human use.
- (2) The department may investigate and make decisions on applications for change or transfer to existing water rights prior to competing applications provided one or more of the following criteria are satisfied:
- (a) The change or transfer if approved would enhance the quality of the natural environment;

(b) The change or transfer if approved would result in providing public water supplies to meet general needs of the public for regional areas; or

(c) The change or transfer was filed by water right holders participating in the Yakima River adjudication, and a decision is needed expeditiously to ensure that conditional final orders of the Yakima County superior court will be representative of the current water use situation.

(3) An application may be processed prior to competing applications if the department determines:

(a) Immediate action is necessary for preservation of public health or safety; or

(b) The proposed water use is nonconsumptive and if approved would enhance or protect the quality of the natural environment.

#### NEW SECTION

**WAC 173-152-050 Exceptions.** Nothing in this chapter precludes the department from processing applications or requests filed for emergent or emergency circumstances under RCW 43.83B.410, 90.03.383(7), or 90.03.390 and/or where the law provides a specific process for evaluation of an application and issuance of a decision.

**WSR 98-04-027**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)  
 [Filed January 28, 1998, 4:10 p.m.]

Date of Adoption: January 28, 1998.

Purpose: Follows requirements of federal law, changing nature of assignment made by public assistance recipient as of October 1, 1997; follows requirements of federal law regarding distribution of child support payments.

Citation of Existing Rules Affected by this Order: Amending WAC 388-14-200 and 388-14-270.

Statutory Authority for Adoption: RCW 74.20A.310, P.L. 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Federal and state law require a change in the effect of the assignment made by a public assistance recipient, and a change in the distribution of child support payments, both to be effective October 1, 1997. The Washington state child support program must be brought into conformance with statutory requirements, or the state IV-D plan will be in violation of federal standards for financial participation. This is a second emergency rule, necessitated by the last-minute drafting changes needed as a result of negotiations with legal services. The emergency rule

adopted October 1, 1997, expires January 28, 1998, and Division of Child Support (DCS) was unable to have the text finalized in time for the January 27, 1998, rule-making hearing. A supplemental notice with the revised text will be filed in the future.

Number of Sections Adopted in Order to Comply with Federal Statute: New 2, amended 2, repealed 0; Federal Rules or Standards: New 2, amended 2, repealed 0; or Recently Enacted State Statutes: New 2, amended 2, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, 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: Immediately.

January 28, 1998  
 Edith M. Rice, Chief  
 Office of Legal Affairs

AMENDATORY SECTION (Amending WSR 92-13-026, filed 6/9/92, effective 7/10/92)

**WAC 388-14-200 ((Eligibility—AFDC and FIP—Assignment of) Families accepting assistance must assign certain support rights((—Cooperation with office of support enforcement—Effect of noncooperation)) to the state.** This section ((establishes the initial and continuing requirements of eligibility for aid to families with dependent children and for family independence program services)) applies to all applicants and recipients of cash assistance under the state program funded under Title IV-A of the federal Social Security Act.

(1) ((Beginning August 1, 1975, as a condition of eligibility for assistance, each applicant/recipient shall make assignment to the office of support enforcement of any and all right, title, and interest in any support obligation the applicant/recipient may have. This includes support rights of any other family member for whom the applicant/recipient is applying for or receiving financial assistance. It also includes rights to support which have accrued at the time such assignment is executed. Through this assignment, the applicant/recipient authorizes the office of support enforcement to provide support enforcement services for the family, and to continue to provide services after the family stops receiving assistance, under the same conditions regarding the physical custodian's obligation to cooperate with OSE, as are in effect at the time assistance terminates, until services are terminated under this chapter.

(2) When the applicant/recipient satisfies subsection (1) of this section, the department may require further cooperation by the applicant/recipient as a continuing condition of eligibility for assistance unless the department determines the applicant/recipient has good cause not to cooperate under WAC 388-24-111. The applicant/recipient's cooperation

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includes, but is not limited to, assisting the office of support enforcement in or by doing the following:

(a) Identifying and locating absent parents by providing:

(i) Relevant information known to, possessed by, or reasonably obtainable by the applicant/recipient about the absent parent, such as the absent parent's:

(A) Name and known aliases;

(B) Address;

(C) Telephone number or numbers;

(D) Social Security Number;

(E) Employment history; and

(F) Physical description.

(ii) Data regarding the date and place of marriage, separation, divorce, or dissolution, and copies of any documents, reasonably obtainable without fee, including any court orders establishing paternity and/or support obligations;

(iii) Information establishing the support debt amount accrued before the application. Applicants shall give information at the time of application and/or at a later time, if requested by the office of support enforcement, to supplement existing information.

(b) Notifying the office of support enforcement when there are changes in information concerning the absent parent;

(c) Establishing the paternity of a child the applicant shall:

(i) Take reasonable action requested by the office, the prosecuting attorneys, the attorney general, private attorneys compensated under RCW 74.20.350, courts, or other agencies in:

(A) Administrative hearings;

(B) Actions to establish paternity; or

(C) Investigations preparatory or supplementary to such hearings or actions.

(ii) Assist in the development of medical and anthropological evidence relating to the alleged father's paternity based on tests performed by experts on the mother and the child.

(d) Establishing and collecting support and/or obtaining support payments or other payments or property due the applicant/recipient or a dependent child. The applicant shall take reasonable action requested by the office of support enforcement, the prosecuting attorney, the attorney general, the private attorney compensated under RCW 74.20.350, courts or other agencies in:

(i) Administrative hearings; or

(ii) Actions to establish or collect support obligations;

or

(iii) Investigations preparatory or supplementary to such hearings or actions.

(e) Remitting support payments the applicant/recipient receives, from any person or agency, to the office of support enforcement within eight days of receipt of said payments;

(f) Executing a repayment agreement and repaying retained support moneys under the agreement.

(3) An applicant/recipient may attest to the lack of information, under penalty of perjury, if the applicant/recipient:

(a) Submits to an interview:

(i) Conducted by the office of support enforcement, a prosecuting attorney, the attorney general, or a private attorney compensated under RCW 74.20.350; and

(ii) Answers questions intended to obtain relevant information:

(b) Does not know, or possess, or cannot reasonably obtain the department's requested information.

(4) The department shall consider an applicant/recipient who attests to the lack of information to be cooperating, as required under this section, unless the:

(a) Applicant/recipient fails or refuses to submit to an interview and answer questions;

(b) Department produces credible evidence which shows that the applicant/recipient's attestation is false; or

(c) Applicant/recipient previously gave inconsistent information for which the applicant/recipient has no reasonable explanation.

(5) The department may not:

(a) Refuse to allow the applicant/recipient to sign an attestation; or

(b) Sanction the applicant/recipient for failure to cooperate merely because previous attempts to identify an absent parent resulted in blood test results excluding the person identified.

However, the applicant/recipient, must cooperate with any necessary retesting.

(6) If the office, the prosecuting attorney, the attorney general, or a private attorney compensated under RCW 74.20.350, believes the applicant/recipient is not cooperating, they shall send notice of the alleged noncooperation to the community services office and the applicant/recipient. The notice shall be evidence of noncooperation and shall include a statement:

(a) Explaining how the applicant/recipient failed to cooperate with that office, including what actions were required;

(b) Of the action that the office believes the applicant/recipient must take to resume cooperation;

(c) Informing the applicant/recipient that the:

(i) Same evidence is furnished to the community services office;

(ii) Applicant/recipient may contact the community services office immediately if the applicant/recipient disagrees with the evidence, needs assistance in order to cooperate, or believes the action required is unreasonable; and

(iii) Applicant/recipient's grant may be reduced or terminated if the IV-A agency determines, after a review of all of the evidence, that the applicant/recipient failed to cooperate.

(7) The department shall include in the notice of planned action either a:

(a) Copy of the evidence of noncooperation; or

(b) Statement of the evidence of noncooperation.

(8) If the applicant/recipient fails to cooperate by missing an interview without reasonable excuse, cooperation resumes when the applicant/recipient appears for a rescheduled interview and either provides information or attests to the lack of information. The office of support enforcement, prosecuting attorney, attorney general, or private attorney shall reschedule the interview within seven business days from the date the applicant/recipient contacts them to reschedule an interview.

(9) Cooperation resumes when the applicant/recipient performs the required action. The department shall reinstate the grant effective on the date cooperation resumes.

(10) If the applicant/recipient does not remit support moneys within eight days of receipt as required under WAC 388-14-200 (2)(c) and the applicant/recipient is currently receiving an AFDC grant, or cash benefits under the family independence program, the office of support enforcement shall:

(a) Document that the applicant/recipient has, in fact, received and retained support money and the amount of said money;

(b) Issue a notice of debt as provided under WAC 388-13-020 to the applicant/recipient to recover the payments, and the department shall include in such notice the following information:

(i) An explanation of the applicant/recipient's responsibility to cooperate by turning over the support money as a condition of eligibility for public assistance, and the sanction for failure to cooperate;

(ii) A list of the support money retained, including the dates and amounts as well as copies of any documentary evidence, such as copies of checks, front and back, the office possesses;

(iii) A proposed repayment agreement that may include a provision for a voluntary grant deduction;

(iv) An explanation that repaying retained support money according to a repayment agreement is a condition of cooperation;

(v) A statement that the recipient may request an informal meeting with the office, within twenty days of the date of service of the notice of debt, to:

(A) Clarify the recipient's responsibilities for cooperation; and

(B) Resolve differences regarding the existence or amount of the claim for unremitted support money and/or the proposed repayment agreement.

(vi) A statement that the recipient has the right to request a hearing under WAC 388-13-060 to contest the:

(A) Department's claim of ownership of the support money identified in the notice; and

(B) Reasonableness of the proposed repayment agreement.

(vii) A statement that the office will notify the community services office that the recipient failed to cooperate unless the recipient, within twenty days of the date of service of the notice of debt, executes the proposed repayment agreement, requests an informal meeting, or requests an adjudicative proceeding.

(11) The department shall base the repayment agreement on the:

(a) Applicant/recipient's total income and resources including the AFDC grant or cash benefits under the family independence program; and

(b) Total amount of retained support money.

(12) The monthly amount of the repayment shall not exceed ten percent of the:

(a) Grant payment standard during any month the applicant/recipient remains in public assistance status, or

(b) Cash benefits paid under the family independence program.

(13) When an applicant/recipient retains support money but is no longer an active recipient of public assistance money, the office of support enforcement, or the office of financial recovery, shall proceed under RCW 74.20A.270 and chapter 388-13 WAC, without reference to the procedural requirements of WAC 388-14-200(10).

(14) The office of support enforcement, or the office of financial recovery, shall notify the community services office when the recipient fails to cooperate if the recipient:

(a) Fails to sign a repayment agreement for the amount of retained support money claimed by the office in the notice of debt or as determined by an administrative law judge if a hearing is requested under WAC 388-13-060;

(b) Enters into a repayment agreement but subsequently fails to make a payment under the terms of the agreement, or fails to comply with the decision of the administrative law judge.

(15) The office of support enforcement, or the office of financial recovery, shall promptly notify the community services office when a recipient who has:

(a) Failed to enter into a repayment agreement, consents to do so and signs a repayment agreement; or

(b) Defaulted on an agreement or an administrative decision, makes a regularly scheduled payment according to the agreement or decision.

(16) Nothing in WAC 388-14-200 allows the department to make an otherwise eligible child ineligible for public assistance because of the applicant/recipient's failure to cooperate as defined in this section.) For purposes of this section:

(a) Family means "assistance unit."

(b) Family member means the caretaker relative, the child(ren), and any other person whose needs are considered in determining eligibility for assistance.

(c) Assistance means assistance under the state program funded under Title IV-A of the federal Social Security Act.

(d) Unreimbursed assistance means the cumulative amount of assistance which was paid to the family and which has not been reimbursed by assigned support collections.

(e) Permanently assigned arrearages means those arrearages which shall be collected and retained by the state up to the amount of unreimbursed assistance. Permanently assigned arrearages accrue only under the following conditions:

(i) For those periods prior to the family receiving assistance, for assistance applications dated on or before September 30, 1997; and

(ii) For those periods while a family receives assistance, for assistance applications dated at any time.

(f) Temporarily assigned arrearages means those arrearages which accrue prior to the family receiving assistance, for assistance applications dated on or after October 1, 1997. Temporarily assigned arrearages are:

(i) Not permanently assigned to the state;

(ii) Collected and retained by the state up to the amount of unreimbursed assistance, if these arrearages are collected by federal income tax refund offset at any time; and

(iii) Collected and retained by the state by any means, up to the cumulative amount of unreimbursed assistance;

(A) Until October 1, 2000 or until the date the family terminates from assistance, whichever date is later; or

(B) Only while the family receives assistance, for assistance periods beginning October 1, 2000 or later.

(2) When a family accepts assistance, the family authorizes the division of child support (DCS) to provide support enforcement services to the family until the support enforcement case is closed pursuant to WAC 388-14-420.

(3) As a condition of eligibility for assistance, a family member must assign to the state the right to collect and keep any support owing to the family member or to any other person for whom the family member has applied for or is receiving assistance.

(4) Amounts assigned under this section may not exceed the lesser of the total amount of assistance paid to the family or the total amount of the assigned support obligation.

(5) While the family receives assistance, all support collected will be retained by the state to reimburse the total amount of assistance which has been paid to the family.

(6) After the family terminates from assistance, certain accrued arrearages remain assigned to the state in accordance with the following rules:

(a) For assistance applications dated prior to October 1, 1997, the applicant permanently assigns to the state all rights to support which accrued before the application date and which will accrue prior to the date the family terminates from assistance.

(b) For assistance applications dated on or after October 1, 1997, and before October 1, 2000:

(i) The applicant permanently assigns to the state all rights to support which accrue while the family receives assistance; and

(ii) The applicant temporarily assigns to the state all rights to support which accrued before the application date, until October 1, 2000, or such time that the family terminates from assistance, whichever date is later. After this date, if any such remaining arrearage is collected by federal income tax refund offset, the state shall retain such amounts, up to the amount of unreimbursed assistance.

(c) For assistance applications dated on or after October 1, 2000:

(i) The applicant permanently assigns to the state all right to support which accrue while the family receives assistance; and

(ii) The applicant temporarily assigns to the state all rights to support which accrued before the application date, until the date the family terminates from assistance. After this date, if any such remaining arrearage is collected by federal income tax refund offset, the state shall retain such amounts, up to the amount of unreimbursed assistance.

AMENDATORY SECTION (Amending WSR 97-13-092, filed 6/18/97, effective 7/19/97)

WAC 388-14-270 Distribution of support payments. The definitions contained in WAC 388-14-200 are incorporated into and made a part of this section.

(1) Under state and federal law, the ((IV-D agency)) division of child support (DCS) shall distribute support money it collects or receives((-in accordance with state and federal law and the provisions of this section;)) to the:

(a) Department when the department provides or has provided public assistance payments for the support of the

family ((unit, household, or a member of the family unit or household));

(b) Payee under the order, or to the physical custodian of the child according to WAC 388-14-271;

(c) Child support enforcement agency in another state or foreign country which submitted a request for support enforcement services;

(d) Indian tribe which has a TANF program and/or a cooperative agreement regarding the delivery of child support services; or

(e) Person or entity making the payment when ((the IV-D agency)) DCS is unable to identify the person to whom the support money is payable after making reasonable efforts to obtain identification information.

(2) If ((the IV-D agency)) DCS is unable to distribute support money because the location of the family or person is unknown, it shall exercise reasonable efforts to locate the family or person. When ((the IV-D agency does not locate the family or person, it)) the family or person cannot be located, DCS shall handle the money in accordance with chapter 458-65 WAC, the uniform unclaimed property act rules.

(3) ((The IV-D agency)) When distributing support money, DCS shall ((apply)) do the following ((-rules when distributing support money)):

(a) Record payments in exact amounts without rounding;

(b) Distribute support money within eight days of the date ((the IV-D agency)) DCS receives the money, unless it is unable to distribute the payment for one or more of the following reasons:

(i) The location of the payee is unknown;

(ii) ((The IV-D agency)) DCS does not have sufficient information to identify the accounts against which or to which it should apply the money;

(iii) An action is pending before a court or agency which has jurisdiction over the issue to determine whether support money is owed or how ((the IV-D agency)) DCS should distribute the money.

(iv) ((The IV-D agency)) DCS receives prepaid support money which it is holding for distribution in future months under subsection ((4)) (5) of this section;

(v) ((The IV-D agency)) DCS mails a notice of intent to distribute support money to the physical custodian under WAC 388-14-271; or

(vi) Other circumstances exist which make a proper and timely distribution of the money impossible through no fault or lack of diligence of ((the IV-D agency)) DCS.

(c) Distribute support money based on the date ((of collection, except as provided under subsection (3)(f) of this section and WAC 388-14-275. The date of collection is the earliest of the following dates:

(i) The date the IV-D agency or a political subdivision actually making the collection)) DCS receives the money, except as provided under subsection (3)(g) of this section;

((ii) The date the support enforcement agency or other legal entity of another state or political subdivision, actually making the collection, receives the money; or

(iii) The date income, earnings, wages, labor and industries benefits, or employment security benefits were withheld.))

(d) ((Except as provided in subsection (3)(f) of this section, when the responsible parent has more than one case

~~under Title IV-D or Title IV-E, the IV-D agency shall distribute)) Apply support money within each Title IV-D nonassistance case:~~

~~(i) First, to satisfy the current support obligation ((on each Title IV-D or foster care case, in proportion to the amount of the current support order on each case; and)) for the month DCS received the money;~~

~~(ii) Second, to the ((total of the support debts whether owed to the family or to the department for the reimbursement of public assistance on each Title IV-D or foster care case, in proportion to the amount of support debt owed by the)) responsible ((parent on each case; and)) parent's support debts owed to the family;~~

~~(iii) Third, ((after distribution under subsection (3)(d)(ii) of this section, within each Title IV-D or foster care case according to)) to prepaid support as provided for under subsection ((3)(e)) (5) of this section.~~

~~(e) Apply support money within each Title IV-D assistance case:~~

~~(i) First, to satisfy the current support obligation for the month ((the IV-D agency, or the support enforcement agency or other legal entity of another state or political subdivision, collected)) DCS received the money;~~

~~(ii) Second, to ((the responsible parent's)) satisfy support debts ((owed to the family)) which are permanently assigned to the department to reimburse the cumulative amount of assistance which has been paid to the family;~~

~~(iii) Third, to ((the responsible parent's)) satisfy support debts which are temporarily assigned to the department to reimburse ((public)) the cumulative amount of assistance ((payments)) paid to the family;~~

~~(iv) Fourth, to prepaid support as provided for under subsection ((4)) (5) of this section.~~

~~(f) Apply ((intercepted federal income tax refunds in accordance with 45 CFR 303.72(h), as follows)) support money within each Title IV-D former assistance case:~~

~~(i) First, ((under federal law to the responsible parent's)) to satisfy the current support ((debts assigned to the department to reimburse public assistance payments; and)) obligation for the month DCS received the money;~~

~~(ii) Second, to ((support debts that are not assigned to the department; and~~

~~(iii) To support debts only, not to current and future support obligations. The IV-D agency shall refund any excess to the responsible parent)) satisfy support debts which accrued after the family's most recent period of assistance;~~

~~(iii) Third, to satisfy support debts which are permanently assigned to the department to reimburse the cumulative amount of assistance which has been paid to the family;~~

~~(iv) Fourth, to satisfy support debts which are temporarily assigned to the department to reimburse the cumulative amount of assistance which has been paid to the family;~~

~~(v) Fifth, to satisfy support debts which exceed the cumulative amount of unreimbursed assistance which has been paid to the family;~~

~~(vi) Sixth, to prepaid support as provided for under subsection (5) of this section.~~

~~(g) Apply intercepted federal income tax refunds in accordance with 42 U.S.C. Sec. 657, as follows:~~

~~(i) First, to support debts which are permanently assigned to the department to reimburse public assistance payments; and~~

~~(ii) Second, to support debts which are temporarily assigned to the department to reimburse public assistance payments; and~~

~~(iii) Third, to support debts that are not assigned to the department; and~~

~~(iv) To support debts only, not to current and future support obligations. DCS shall refund any excess to the responsible parent.~~

~~(h) Apply amounts to a support debt owed for one family or household and distribute the amounts accordingly, rather than make a proportionate distribution between support debts owed to different families, when:~~

~~(i) Proportionate distribution is administratively inefficient; or~~

~~(ii) The collection resulted from the sale or disposition of a specific piece of property against which a court awarded the physical custodian a judgment lien for child support; or~~

~~(iii) The collection resulted from a contempt order in a particular case.~~

~~((h)) (i) Report amounts distributed to a family, receiving public assistance, to the community services office. This requirement shall not relieve the recipient of the duty to report receipt of support money((=and~~

~~(i) Pay a family, receiving cash assistance under the aid to families with dependent children program, up to the first fifty dollars of each child support payment as provided under WAC 388-14-275)).~~

~~(4) Except as provided in subsection (3)(g) of this section, when the responsible parent has more than one Title IV-D case, DCS shall distribute support money:~~

~~(a) First, to the current support obligation on each Title IV-D case, in proportion to the amount of the current support order on each case; and~~

~~(b) Second, to the total of the support debts whether owed to the family or to the department for the reimbursement of public assistance on each Title IV-D case, in proportion to the amount of support debt owed by the responsible parent on each case; and~~

~~(c) Third, after distribution under subsection (3)(d)(ii) of this section, within each Title IV-D case according to subsection (3)(e) of this section.~~

~~(5) If ((the IV-D agency)) DCS receives or collects support money representing payment on the required support obligation for future months, it shall:~~

~~(a) Apply the support money to future months when the support debt is paid in full;~~

~~(b) Distribute the support money on a monthly basis when payments become due in the future; and~~

~~(c) Mail a notice to the last known address of the person entitled to receive support money. The notice shall inform the person that:~~

~~(i) ((The IV-D agency)) DCS received prepaid support money;~~

~~(ii) ((The IV-D agency)) DCS will distribute the prepaid money as support payments become due in the future; and~~

~~(iii) ((If the support order is a court order, the person may petition the court that entered the support order for an order requiring the immediate distribution of the prepaid support money; or~~

~~(iv) If the support order is an administrative order,)) The person may request a conference board under WAC 388-14-~~

385 to determine if the prepaid support money should be immediately distributed.

(d) ((The IV-D agency)) DCS shall not mail the notice referred to in ((4)) (5)(c) of this section if the prepaid support is equal to or less than one month's support obligation.

#### NEW SECTION

**WAC 388-14-201 Cooperation with division of child support.** (1) An applicant/recipient (also called the "client") must cooperate with the division of child support (DCS), which is the state IV-D agency, unless the department determines there is good cause not to cooperate under WAC 388-215-1400 through 388-215-1490. For purposes of this section and WAC 388-14-202, DCS includes those acting on behalf of DCS (its "agents"), namely the prosecuting attorney, the attorney general, or a private attorney paid per RCW 74.20.350.

(2) Cooperation means giving information, attending interviews, attending hearings, or taking actions to help DCS establish and collect child support. This information and assistance is necessary for DCS to:

- (a) Identify and locate the responsible parent;
- (b) Establish the paternity of the child(ren) on assistance in the client's care; and
- (c) Establish or collect support payments or resources such as property due the client or the child(ren).

(3) The client must also cooperate by sending to DCS any child support received by the client while on assistance, as required by RCW 74.20A.320. If the client keeps these payments, known as retained support, the client must sign an agreement to repay under RCW 74.20A.275.

(4) There may be penalties, called sanctions, for not cooperating with DCS. These sanctions and the noncooperation process are described in WAC 388-14-201. A client will be sanctioned if:

- (a) The client does not go to scheduled interviews and answer questions;
- (b) There is credible evidence showing that the client could have given the information but did not; or
- (c) The client has been giving inconsistent or false information without a good reason.

(5) The client must be given the opportunity to swear he or she does not have the information.

(6) The client will not be sanctioned because he or she provided information on a possible parent who was then excluded by genetic testing. In this event the client must continue to cooperate in naming other possible parents and taking part in any resulting genetic testing.

(7) The client may not be able to help DCS if the client does not know, does not possess, or cannot reasonably obtain the requested information. To avoid a sanction, the client must, under penalty of perjury, swear to his or her lack of information in an interview held by DCS or its agent.

#### NEW SECTION

**WAC 388-14-202 Effects of noncooperation.** (1) When the division of child support (DCS) or its agents believe an applicant/recipient (also called "the client") is not cooperating as defined in WAC 388-14-201, a notice is sent to the client and to the community service office (CSO) of

the alleged noncooperation and must explain to both the following:

(a) How the noncooperation was determined, including what actions were required;

(b) What actions must be taken to resume cooperation;

(c) That this notice was sent to the CSO;

(d) That the client may contact the CSO immediately if he or she disagrees with the notice, needs help in order to cooperate, or believes the actions required are unreasonable; and

(e) That the CSO may sanction the client by either reducing or terminating the grant.

(2) The CSO will send a notice of planned action to the client as provided by WAC 388-245-1700.

(3) Either the notice of alleged noncooperation or the CSO's notice of planned action may serve as the basis for a sanction.

(4) If the noncooperation was due to missing an interview without reasonable excuse, cooperation resumes when the client appears for a rescheduled interview and either provides information or attests to the lack of information. DCS or its agent must reschedule the interview within seven business days from the date the client contacts them to reschedule an interview.

(5) If the noncooperation was due to not taking a required action, cooperation resumes when the client takes that action.

**WSR 98-04-034  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 98-10—Filed January 29, 1998, 3:45 p.m.]

Date of Adoption: January 29, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-52-040 and 220-52-046.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The closures in this emergency rule are necessitated by federal court order. The state may not authorize commercial shellfish harvests absent agreed planning or compliance with a process. Agreed plans with applicable tribes have been entered as required by the court order. Such plans have the effect of a federal court order. 898 F. Supp. 1453, 1466, 3.1. Pursuant to RCW 34.04.350 [34.05.350], the need to comply with such federal court orders in the form of allocative management plans constitutes an emergency that requires bypassing the time periods inherent in permanent rule making. Failure to comply with such plans may result in contempt of federal court or failure of all commercial crab fishing in a given region addressed by a plan. These rules were adopted by permanent regulation by the Washington State Department

EMERGENCY

of Fish and Wildlife on January 24, 1998, but will not take effect until after current emergency rules expire.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 29, 1998

Larry Peck

for Bern Shanks

Director

#### NEW SECTION

**WAC 220-52-04600Z Crab fishery—Seasons, areas and gear restrictions.** Notwithstanding the provisions of WAC 220-52-046, it is unlawful to fish for Dungeness crab for commercial purposes in Puget Sound except during the times and in the areas provided for in this section.

(1) Effective immediately until further notice, all Puget Sound Marine Fish/Shellfish Management and Catch Reporting Areas are open except Areas 25C, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, and 28D and the closures provided for in this section.

(2) The following areas are closed to non-Indian commercial crab fishing.

(a) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 20A in Lummi Bay east of a line projected from the entrance buoy at Sandy Point to Gooseberry Point.

(b) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 21A in Bellingham Bay west of a line projected from the exposed boulder at Point Frances to the pilings at Stevie's Point.

(c) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 24A east of lines projected north from the most westerly tip of Skagit Island and south to the most westerly tip of Hope Island thence southeast to Seal Rocks, thence southeast to the green can buoy at the mouth of Swinomish Channel, thence easterly to the west side of Goat Island.

(d) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 24B inside a line projected from Priest Point to the five-meter tower between Gedney Island and Priest Point, thence northwesterly on a line between the five-meter tower and Barnum Point to the intersection with a line projected true west from Kayak Point, thence east to shore.

(e) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 24B north of a line projected true

west from Kayak Point and south and west of a line from Kayak Point to Barnum Point.

(f) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 25A west of a line from the new Dungeness Light to the mouth of Cooper Creek.

(g) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 25D within a line from the Point Hudson Marina entrance to the northern tip of Indian Island, thence to Kala Point, thence following the shoreline to the point of origin.

(3) The following areas are closed to commercial crab fishing during the periods indicated:

(a) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 24C inshore of the 400 foot depth contour within an area bounded by parallel lines projected northeasterly from Sandy Point and the entrance to the marina at Langley are closed from March 1, 1998 through April 15, 1998.

(b) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 26A in Useless Bay north and east of a line from Indian Point to a point on shore 1.5 miles northeast of Double Bluff are closed from March 1, 1998 through April 15, 1998.

(c) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 21B inside lines from Oyster Creek to the fisheries monument on Samish Island and from Oyster Creek to Point Williams are closed shoreward of the ten fathom contour from March 1, 1998 through April 15, 1998.

(d) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22B in Fidalgo Bay south of a line projected from the red number 4 entrance buoy at Cap Sante Marina to the northern end of the eastern most oil dock are closed from March 1, 1998 through April 15, 1998.

(4) The following areas are closed to commercial crab fishing until further notice:

(a) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 24A within a line northeast from Rocky Point to the red number 2 buoy, thence to Brown Point.

(b) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 24D south of a line from Dines Point to the point just north of Beverly Beach.

(c) Those waters of Marine Fish/Shellfish Management and Catch Reporting Areas 26A south and east of a line projected from the 3A buoy at the Snohomish River mouth to the outermost tip of the ferry dock at Mukilteo.

(d) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 26A within a line from the green number 1 buoy at Scatchet Head to the green number 1 buoy at Possession Point thence following the 200 foot contour to a point due east from the Glendale Dock.

(e) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 21B in Samish Bay south of a line from Oyster Creek to the fisheries management monument on Samish Island.

(f) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A in Westcott and Garrison Bays east of a line projected due south from Point White to San Juan Island.

(g) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 20A in Birch Bay east of a line



projected from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance to the Birch Bay Marina.

(h) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 21A shoreward of the ten-fathom (MLLW) contour in Chuckanut Bay.

(i) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A in Blind Bay south of a line projected due west from Point Hudson to Shaw Island.

(j) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A in Deer Harbor north of a line projected from Steep Point to Pole Pass.

(k) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A in Fisherman Bay south of a line projected east-west through the red number 4 entrance buoy.

(l) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A in Mud Bay south of a line projected from Lopez Island through Crab and Fortress Islands to Lopez Island.

(m) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22B in Padilla Bay within a line projected from the northern end of the eastern most oil dock to the red number 2 buoy, thence southeasterly to the red number 8 buoy, thence west to shore.

(n) All waters in the San Juan Islands Marine Preserve Area.

(5) In all open areas as provided for in this section, it is unlawful to pull or set commercial crab gear from one-half hour after sunset to one-half hour before sunrise.

Reviser's note: The 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 220-52-04000G Crab fishery—Lawful and unlawful.** Notwithstanding the provisions of WAC 220-20-010 and WAC 220-52-040, effective immediately until further notice:

(1) It is unlawful for any person to take or fish for Dungeness crabs for commercial purposes in the Puget Sound licensing district with more than 20 pots per groundline, and it shall be unlawful to use or operate a groundline unless such gear meets the following requirements:

(a) A buoy, staff, flag and radar reflector must be attached at each end of the groundline;

(b) Flags attached at each end of the groundline must be orange in color;

(c) Buoys attached at each end of the groundline must be marked in a visible and legible manner with the Department of Fish and Wildlife approved and registered buoy brand issued to the license;

(d) Buoys attached at each end of the groundline must be marked with the number of pots attached to the groundline;

(e) Staffs with attached flags at each end of the groundline must be at least four feet above the water surface.

(2) Notwithstanding the provisions of RCW 75.28.-048(4) the following Marine Fish/Shellfish Management and

Catch Reporting Areas are restricted in the number of pots fished from a vessel.

(a) It is unlawful for any person to take or fish for Dungeness crabs for commercial purposes using more than eighty pots in the combined waters of Marine Fish Shellfish Management and Catch Reporting Areas 23A, 23B, 23C, 23D, 25A, 25E and 29.

(b) It is unlawful for any person to take or fish for Dungeness crabs for commercial purposes using more than 10 pots in Marine Fish Shellfish Management and Catch Reporting area 25E.

(c) It is unlawful for any person to take or fish for Dungeness crabs for commercial purposes using more than 10 pots in all waters of Marine Fish Shellfish Management and Catch Reporting Area 25A south of a line projected true west from Travis Spit on Miller Peninsula.

(3) A current Puget Sound crab/pot buoy brand certificate is not required to fish for Dungeness crab in Puget Sound.

**WSR 98-04-035  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 98-11—Filed January 29, 1998, 3:50 p.m.]

Date of Adoption: January 29, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-52-07300Z; and amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of green sea urchins exist in the areas described. Prohibition of all diving within two days of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

EMERGENCY

January 29, 1998  
 Larry Peck  
 for Bern Shanks  
 Director

**WSR 98-04-040**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)  
 [Filed January 29, 1998, 4:25 p.m.]

**NEW SECTION**

**WAC 220-52-07300A Sea urchins** Notwithstanding the provisions of WAC 220-52-073, effective immediately until further notice it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Green sea urchins: Sea Urchin Districts 1, 2, 3, 4 and Marine Fish/Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, are open only on February 2, 3, 4, and 5, 1998. The minimum size for green sea urchins is 2.25 inches in diameter exclusive of the spines.

(2) Sea Urchin Districts:

(a) Sea Urchin District 1 (Northern San Juan Islands) is defined as Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, and those waters of Area 22A north of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and west of a line projected true north from Limestone Point on San Juan Island.

(b) Sea Urchin District 2 (Southern San Juans and Port Townsend) is defined as those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and east of a line projected true north from Limestone Point on San Juan Island, and Areas 21A, 21B, 22B, 23A, 23B, 25A, and 25B. The following areas within Sea Urchin District 2 are closed to the harvest of sea urchins at all times.

(i) Those waters of Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(ii) Those waters of San Juan Channel and Upright Channel within the following lines: north of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island, south of a line projected from Flat Point on Lopez Island true west to Shaw Island, west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island, and south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island.

(3) It is unlawful to dive for any purpose from a commercially-licensed fishing vessel, except vessels actively fishing geoducks under contract with the Washington Department of Natural Resources, on January 31, 1998 and February 1, 1998.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07300Z Sea urchin (98-09)

Date of Adoption: January 29, 1998.

Purpose: To implement a change in the federal thrifty food plan for the food stamp program. Also to repeal several WAC sections referencing, instead, the Code of Federal Regulations in one remaining section.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-49-560, 388-49-570, and 388-49-580; and amending WAC 388-49-550.

Statutory Authority for Adoption: RCW 74.04.510, 74.08.090.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The thrifty food plan is integral to computing food stamp benefits. A delay in adoption may delay increased benefits for some households.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 1, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 3; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 3.

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.

January 29, 1998

Edith M. Rice, Chief  
 Office of Legal Affairs

**AMENDATORY SECTION** (Amending WSR 96-23-024, filed 11/12/96, effective 1/1/97)

**WAC 388-49-550 ((Monthly allotments)) Computing, issuing, replacing, and restoring food stamp benefits.** (1) ~~((The department shall determine the value of the allotment a household receives))~~ Amounts are figured per 7 CFR 273.10 and the thrifty food plan (TFP).

(2) ~~The ((monthly allotment shall equal the thrifty food plan (f))TFP(f) for the household size reduced by thirty percent of the household's net income. The department shall use the monthly allotment standards as established by the food and nutrition service))~~ is a federal amount set as a low cost diet for various household sizes. The amounts below are given to households with zero countable income. Households with income receive smaller benefits.

Household Size	Thrifty Food Plan
1	<del>\$(120)</del> <u>122</u>
2	<del>((220))</del> <u>224</u>
3	<del>((315))</del> <u>321</u>
4	<del>((400))</del> <u>408</u>
5	<del>((475))</del> <u>485</u>
6	<del>((570))</del> <u>582</u>
7	<del>((630))</del> <u>643</u>
8	<del>((720))</del> <u>735</u>
9	<del>((810))</del> <u>827</u>
10	<del>((900))</del> <u>919</u>
Each additional member	+ <del>((90))</del> <u>92</u>

~~(3) (The department shall issue to households, except for households as specified in subsection (4) of this section, a prorated coupon allotment for the number of days remaining from the date of application to the end of the initial month of eligibility.~~

~~(a) The department shall base the allotment on a thirty-day month.~~

~~(b) The department shall not issue an allotment for less than ten dollars.~~

~~(4) The department shall issue a full month allotment to eligible migrant and seasonal farmworker households applying within one calendar month after a prior certification ends.~~

~~(5) The department shall determine the value of the monthly allotment a household receives by:~~

~~(a) Multiplying the household's net monthly income by thirty percent;~~

~~(b) Rounding the product up to the next whole dollar if it ends with one through ninety nine cents; and~~

~~(c) Subtracting the result from the thrifty food plan for the appropriate household size.~~

~~(6) One and two person households shall receive a minimum monthly allotment of ten dollars except in the initial benefit month when the department shall not issue an allotment for less than ten dollars.~~

~~(7) The department shall issue an identification card to each certified household.) Amounts are issued per 7 CFR 274.2 and 7 CFR 274.3.~~

(4) Amounts are replaced per 7 CFR 274.6.

(5) Amounts are restored per 7 CFR 273.17.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- 388-49-560 Issuance.
- 388-49-570 Replacement allotments.
- 388-49-580 Restoration of lost benefits.

**WSR 98-04-045**

**EMERGENCY RULES**

**DEPARTMENT OF TRANSPORTATION**

[Filed January 30, 1998, 10:52 a.m.]

Date of Adoption: January 30, 1998.

Purpose: To bring administrative rule, WAC 468-38-260, into compliance with current practice adopted to help preserve the public safety.

Citation of Existing Rules Affected by this Order: Amending WAC 468-38-260 Night-time movements.

Statutory Authority for Adoption: RCW 46.44.090.

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: Under certain circumstances the department has been permitting oversize loads to move at night when traffic is light and there is a lower risk of incident occurring with the general motoring public. These moves are tightly controlled with specific routes and time windows.

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: Immediately.

January 30, 1998  
Gerald E. Smith  
Deputy Secretary  
Operations

AMENDATORY SECTION (Amending Order 132, filed 11/2/92, effective 12/3/92)

**WAC 468-38-260 Night-time movements.** Vehicles or combinations operating under special motor vehicle permits that are overweight and/or overdimensional (~~not exceeding ten feet wide or one hundred feet long, and of legal height~~) may be permitted to move at night on state highways (~~during normal atmospheric conditions~~), subject to department preferred hours/routes of travel, and in compliance with published curfew restrictions. "Night-time movement approved" must be stated on the permit. Night means one-half hour after sunset to one-half hour before sunrise. Those oversize loads that are allowed to move at night shall have lighting equipment as required by the Code of Federal Regulations, Title 49, part 393.11. No movements shall be made when visibility is reduced to less than ~~(one thousand)~~ five hundred feet or when hazardous roadway conditions exist (including, but not limited to: Snow, ice, mud slide, wind or water flooding over roadway). It shall be the responsibility of the permittee to discontinue movement and remove the unit from the highway when any of the above conditions exist which could create an unsafe movement.

EMERGENCY

**WSR 98-04-055  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 98-12—Filed January 30, 1998, 4:25 p.m.]

Date of Adoption: January 30, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-56-270.

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: Smelt returns are projected to be poor in 1998. To date there have been no significant returns of smelt to Washington tributaries and a conservative approach is necessary for smelt management in 1998. Closure of the recreational smelt fishery will provide protection to the tributary spawners and is consistent with action by the Department of Fish and Wildlife to close the Washington tributary commercial smelt fishery. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 30, 1998  
Dirk Brazil  
for Bern Shanks  
Director

**NEW SECTION**

**WAC 220-56-27000B Smelt—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-270, effective 12:01 a.m. February 2, 1998, until further notice, it is unlawful to take, fish for or possess smelt in all Washington tributaries to the Columbia River.

**WSR 98-04-056  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 98-13—Filed January 30, 1998, 4:30 p.m.]

Date of Adoption: January 30, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-32-05100D; and amending WAC 220-32-051.

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 fish are available for the standard treaty Indian winter commercial season. This rule is consistent with the 1996-98 Management Agreement, ESA requirements, and actions of the Columbia River Compact of January 29, 1998. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 30, 1998  
Dirk Brazil  
for Bern Shanks  
Director

**NEW SECTION**

**WAC 220-32-05100D Columbia River salmon seasons above Bonneville.** (1) Notwithstanding the provisions of WAC 220-32-051, and 220-32-052, 220-32-053, 220-32-056, 220-32-057, and 220-32-058, effective immediately it is unlawful for a person to take or possess salmon, shad or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas (SMCRA) 1F, 1G or 1H, except those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla or Nez Perce treaties may fish or possess salmon, sturgeon and shad under the following provisions:

(a) Open Periods:

Noon February 2 to noon February 7, 1998

Noon February 9 to noon February 14, 1998

EMERGENCY

Noon February 16 to noon February 21, 1998  
 Noon February 23 to 4 p.m. February 28, 1998  
 Noon March 2 to 4 p.m. March 7, 1998  
 Noon March 9 to 4 p.m. March 14, 1998  
 Noon March 16 to 4 p.m. March 21, 1998

(b) Open Area: SMCRA 1F, 1G, and 1H.

(c) Mesh: No mesh restriction

(d) It is unlawful to retain sturgeon less than 48 inches or greater than 60 inches in length. Sturgeon may be retained for subsistence purposes only. All sale of sturgeon is prohibited.

(2) Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:

(a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

(b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between point one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located one-half mile downstream from the west bank upstream to light "35".

(f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

(g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

(h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia river between Light "27" upstream to a marker located approximately one-half mile upstream from the eastern shoreline.

(3) Notwithstanding the provisions of WAC 220-22-010, during the open periods in subsection (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 located approximately 1.8 miles below the Dalles Dam.

(b) Area 1G includes those waters of the Columbia River upstream from a line drawn between deadline marker

on the Oregon shore located approximately 3/4 mile above the Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in midriver, then downstream to Light "1" on the Washington 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, extending at a right angle across the thread of the river to a point in midriver, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, 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 effective 4:01 p.m. March 21, 1998:

WAC 220-32-05100D Columbia River salmon seasons above Bonneville.

### WSR 98-04-067 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 98-14—Filed February 2, 1998, 3:23 p.m.]

Date of Adoption: February 2, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 220-33-04000E; and amending WAC 220-33-040.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Smelt returns are projected to be poor in 1998. To date there have been no significant returns of smelt to Washington tributaries and a conservative approach is necessary for smelt management in 1998. Closure of the commercial smelt fishery in the Washington tributaries will provide protection to the tributary spawners and is consistent with the action of the Department of Fish and Wildlife to close the recreational smelt fishery. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

February 2, 1998  
Dirk Brazil  
for Bern Shanks  
Director

### NEW SECTION

**WAC 220-33-04000F Smelt seasons—Lower Columbia River and tributaries.** Notwithstanding the provisions of WAC 220-33-040, effective 12:01 a.m. February 2, 1998, until further notice it is unlawful to commercially fish for smelt in the Lower Columbia River and the Columbia River tributaries as defined in WAC 220-16-400 except as provided for in this section:

(1) The mainstem of the Lower Columbia River is open only:

6:00 a.m. to 6:00 p.m. Mondays and Fridays from January 30 to February 13, 1998.

(2) Allowable sale: Smelt

(3) Except for the seasons provided for in this section, all other provisions of WAC 220-33-040 remain in effect.

### REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. February 1, 1998:

**WAC 220-33-04000E Smelt seasons—Lower Columbia River and tributaries.**

**WSR 98-04-068  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 98-15—Filed February 2, 1998, 3:25 p.m.]

Date of Adoption: February 2, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100D and 220-32-05100E; and amending WAC 220-32-051.

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 fish are available for the standard treaty Indian winter commercial season. This rule is consistent with the 1996-1998 Management Agreement, ESA requirements, and actions of the Columbia River Compact of January 29, 1998. Confirms state rules with tribal rules. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal

Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

February 2, 1998  
Dirk Brazil  
for Bern Shanks  
Director

### NEW SECTION

**WAC 220-32-05100E Columbia River salmon seasons above Bonneville.** (1) Notwithstanding the provisions of WAC 220-32-051, and 220-32-052, 220-32-053, 220-32-056, 220-32-057, and 220-32-058, effective immediately it is unlawful for a person to take or possess salmon, shad or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas (SMCRA) 1F, 1G or 1H, except those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla or Nez Perce treaties may fish or possess salmon, sturgeon and shad under the following provisions:

(a) Open Periods:

Noon February 2 to noon February 7, 1998

Noon February 9 to noon February 14, 1998

Noon February 16 to noon February 21, 1998

Noon February 23 to 4 p.m. February 28, 1998

Noon March 2 to 4 p.m. March 7, 1998

Noon March 9 to 4 p.m. March 14, 1998

Noon March 16 to 4 p.m. March 21, 1998

(b) Open Area: SMCRA 1F, 1G, and 1H.

(c) Mesh: No mesh restriction

(d) It is unlawful to retain sturgeon less than 48 inches or greater than 60 inches in length.

(2) Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:

(a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

(b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between point one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

**WSR 98-04-090**  
**EMERGENCY RULES**  
**DEPARTMENT OF HEALTH**  
[Filed February 4, 1998, 11:49 a.m.]

(d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located one-half mile downstream from the west bank upstream to light "35".

(f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

(g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

(h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia river between Light "27" upstream to a marker located approximately one-half mile upstream from the eastern shoreline.

(3) Notwithstanding the provisions of WAC 220-22-010, during the open periods in subsection (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 located approximately 1.8 miles below the Dalles Dam.

(b) Area 1G includes those waters of the Columbia River upstream from a line drawn between deadline marker on the Oregon shore located approximately 3/4 mile above the Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in midriver, then downstream to Light "1" on the Washington 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, extending at a right angle across the thread of the river to a point in midriver, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, 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 220-32-05100D Columbia River salmon seasons above Bonneville

The following section of the Washington Administrative Code is repealed effective 4:01 p.m. March 21, 1998:

WAC 220-32-05100E Columbia River salmon seasons above Bonneville

Date of Adoption: February 4, 1998.  
Purpose: Will put in rule civil fine authority for boarding homes as authorized by RCW 18.20.190.

Citation of Existing Rules Affected by this Order: Amending WAC 246-316-990.

Statutory Authority for Adoption: RCW 18.20.050, 43.70.110.

Other Authority: RCW 18.20.190.

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 number of serious complaints against boarding homes has dramatically increased in the last year. This rule is necessary to protect boarding home residents.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

February 4, 1998  
Bruce Miyahara

**AMENDATORY SECTION** (Amending WSR 98-01-165, filed 12/22/97, effective 1/22/98)

**WAC 246-316-990 Fees.** (1) The licensee or applicant shall submit an:

~~((1) Submit an))~~ (a) Annual license fee of fifty-four dollars per bed of the licensed resident bed capacity for initial and renewed licenses;

~~((2) Submit an))~~ (b) Additional one hundred fifty dollars when billed by the department for:

~~((a))~~ (i) A third on-site visit resulting from failure of the licensee or applicant to adequately respond to a statement of deficiencies; and

~~((b))~~ (ii) A complete on-site survey resulting from a substantiated complaint; and

~~((3) Submit an))~~ (c) Additional late fee in the amount of ten dollars per day from the license renewal date until the date of mailing the fee, as evidenced by the postmark.

(2) The department may use civil fines as authorized by RCW 18.20.190 for enforcement purposes as follows:

EMERGENCY

(a) Up to one hundred dollars per day per violation for violations which create or have the potential for creating a serious risk of harm to residents; and

(b) Up to fifty dollars per day per violation for violations which adversely affect resident general well-being but do not have the potential for harm to residents.



**WSR 98-04-002**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**  
(Natural Heritage Advisory Council)  
[Memorandum—January 22, 1998]

**NOTICE OF MEETING**  
**FOR THE**  
**NATURAL HERITAGE ADVISORY COUNCIL**  
**1998**

The Natural Heritage Advisory Council will meet on October 7, 1998, 9:30 a.m. to 5:00 p.m. at the General Administration Building in Room G-3 in Olympia, Washington.

Regular council business will include consideration of natural area preserve proposals, site proposals for the registry program and NAP management activities.

For further information contact Department of Natural Resources, Washington Natural Heritage Program, Forest Resource Division, 1111 Washington Street S.E., P.O. Box 47016, Olympia, WA 98504-7016, (360) 902-1340.

**WSR 98-04-008**  
**NOTICE OF PUBLIC MEETINGS**  
**WASHINGTON STATE LIBRARY**  
(Library Commission)  
[Memorandum—January 21, 1998]

The Washington State Library Commission will hold a special meeting as noted below:

**DATE:** Monday, January 26, 1998  
**TIME:** 3:00 p.m.  
**LOCATION:** State Superintendent of Public Instruction  
Old Capitol Building  
P.O. Box 47200  
Olympia, WA 98504-7200  
(360) 586-6904

For additional information please contact Cathy M. Stussy at (360) 753-2914 or FAX (360) 586-7575 or Internet cstussy@statelib.wa.gov.

**WSR 98-04-009**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
[Memorandum—January 22, 1998]

In accordance with RCW 42.30.075, the University of Washington is providing the enclosed meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the University of Washington Public Records Office.

DIVISION OF BIOMEDICAL INFORMATICS,  
DEPARTMENT OF MEDICAL EDUCATION

Meeting Dates	Location	Time
January 8, 1998		Noon-
February 19, 1998	Room 303	1:30 p.m.

March 19, 1998 Room 342 (all)  
April 16, 1998  
May 21, 1998 All in South  
June 18, 1998 Campus Center

Civil Engineering Faculty

Meeting Dates	Location	Time
Tuesday, January 20	More Hall, 201	12:30 p.m.
Tuesday, February 10	More Hall, 201	12:30 p.m.
Tuesday, March 10	More Hall, 201	12:30 p.m.
Tuesday, April 21	More Hall, 201	12:30 p.m.
Tuesday, May 12	More Hall, 201	12:30 p.m.
Tuesday, June 9	More Hall, 201	12:30 p.m.
Tuesday, September 8	More Hall, 201	12:30 p.m.
Tuesday, October 13	More Hall, 201	12:30 p.m.
Tuesday, November 10	More Hall, 201	12:30 p.m.
Tuesday, December 8	More Hall, 201	12:30 p.m.

**WSR 98-04-012**  
**RULES COORDINATOR**  
**DEPARTMENT OF REVENUE**  
[Filed January 23, 1998, 3:55 p.m.]

The rules coordinator for the Department of Revenue is Alan Lynn. He may be contacted as follows: Alan Lynn, Rules Coordinator, Legislation and Policy, Department of Revenue, 711 Capitol Way South, Suite 303, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 586-9040, FAX (360) 664-0693, TDD 1-800-451-7985 or (360) 753-3217, e-mail alanl@dor.wa.gov.

Claire Hesselholt  
Policy Counsel

**WSR 98-04-013**  
**NOTICE OF PUBLIC MEETINGS**  
**FIRE PROTECTION POLICY BOARD**  
[Memorandum—January 26, 1998]

STRATEGIC PLANNING  
MEETING SCHEDULE

General Administration Building - Olympia, Washington

January 15, 1998	10 a.m. - 4 p.m.
February 20, 1998	8 a.m. - 5 p.m.
February 21, 1998	8 a.m. - 2:30 p.m.
March 13, 1998	8 a.m. - 5 p.m.
March 14, 1998	8 a.m. - 2:30 p.m.
April 17, 1998	8 a.m. - 5 p.m.
April 18, 1998	8 a.m. - 2:30 p.m.
*May 21, 1998	8 a.m. - 10 a.m.
Board Meeting	10 a.m. - noon
Strategic Planning	1 p.m. - 5 p.m.
Continued	

\*This is a board meeting day.

MISC.

**WSR 98-04-029**  
**AGENDA**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**

[Filed January 29, 1998, 9:40 a.m.]

**Department of Financial Institutions**  
**Semi-Annual Rules Development Agenda**  
**January 1, 1998 - June 30, 1998**

**DIVISION OF CONSUMER SERVICES**

1. Amendments to chapter 208-660 WAC to reflect statutory changes to definitions, exemptions from licensing, branch office licensing requirements, records retention requirements, bonding requirements, and trust accounting requirements applying to mortgage brokers.

**DIVISION OF CREDIT UNIONS**

1. Review of all Division of Credit Unions rules in accordance with Executive Order No. 97-02. Affects the following rules: Chapters 208-418, 208-436, 208-440, 208-444, 208-464, 208-472, and 208-480 WAC. May involve adoption, amendment or repeal of various rules.

2. Revision to field of membership rules. Affects chapter 208-472 WAC. May involve adoption, amendment or repeal of various rules.

**DIVISION OF SECURITIES**

1. If the departmental request securities bill is passed by the legislature in 1998, amendments to chapter 460-42A WAC may be necessary. If the bill is passed into law, these changes will be identified. This may not take place before June 30.

2. Changes are expected to be made in WAC 460-44A-500 through 460-44A-508. The passage of the National Securities Markets Improvement Act of 1996 (NSMIA) has created the need to amend the Reg D rules. NSMIA created "covered securities" which are preempted from substantive state regulation. Securities issued pursuant to federal rule 506 are now classified as covered securities. As a result, state Reg D provisions need to be amended to reflect this change. In addition, the division has proposed amending RCW 21.20.320(9) to allow offerings greater than \$500,000 under that provision. If such a change is passed, it will be necessary to make further amendments to Reg D rules, particularly WAC 460-44A-504.

3. WAC 460-32A-400 is the last remaining rule under chapter 460-32A WAC. This title was named real estate related securities programs, and all other rules within the chapter were repealed in 1993 because the rules were no longer deemed necessary. The last remaining provision was retained because it recognizes Securities and Exchange Commission Securities Act Release No. 5347, which continues to be in effect. The remaining rule is largely composed of the text of the SEC release; the rule should be amended to delete the full text of the release and to simply incorporate the release by reference.

4. It is expected that WAC 460-44A-050 will be revised to clarify its meaning. The rule currently addresses only nonissuer transactions. However, the statutory provision of RCW 21.20.320(1) contains no limitation that it covers only nonissuer transactions. Consistent with treatment given Securities Act Section 4(2) by the SEC, the Washington exemption may appropriately be considered to cover issuer

as well as nonissuer transactions. The rule may be revised to eliminate this impression by incorporating the position contained in current Interpretive Statement #8 and subsequently withdrawing or repealing the interpretive statement.

5. The 1998 legislative session may result in changes in the state's manual exemption contained in RCW 21.20.320(2), and it is anticipated that a manual exemption similar to that adopted recently by the North American Securities Administrators Association will be adopted. If the departmental request securities bill is passed by the legislature in 1998, changes will need to be made in the associated provision of WAC 460-44A-200.

6. NASAA Statements of Policy that were revised as part of the coordinated equity review process need to be adopted and any conflicting or overlapping regulations repealed. This should be done by March 31, 1998. The policy statements would be adopted in WAC 460-16A-205. Any repealed sections would be in chapter 460-16A WAC as well.

7. WAC 460-17A-070 may need to be amended in connection with adoption of the NASAA policy statements. This rule covers application of the provisions of chapter 460-16A WAC to SCOR offerings, and references parts of chapter 460-16A WAC that will probably be repealed in favor of the NASAA policies.

**DIVISION OF BANKS**

1. Repeal of chapter 50-52 WAC, Washington Land Bank. The legislature is now in the process of repealing the land bank statute.

2. Amend various sections of chapter 50-36 WAC, Administration of trust companies, investments, etc. The purpose of the amendments is to clarify that the posting of net asset values in a newspaper or website is not to be considered advertising, and to bring the regulations in line with Regulation 9 of the federal regulations for competitive reasons.

**WSR 98-04-030**

**NOTICE OF PUBLIC MEETINGS**  
**WHATCOM COMMUNITY COLLEGE**

[Memorandum—January 29, 1998]

1998 Meeting Schedule of the Board of Trustees  
 Second Tuesday of the Month at 2:00 p.m.  
 Board Room in the Laidlaw Center  
 Whatcom Community College  
 237 West Kellogg Road  
 Bellingham, WA 98226

January 13  
 February 10  
 March 10  
 April 14  
 May 12  
 June 9  
 July 14  
 August 11 (no meeting)  
 September 8  
 October 13  
 November 10  
 December 8

MISC.

WSR 98-04-041  
AGENDA  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
[Filed January 29, 1998, 4:27 p.m.]

**DEPARTMENT OF SOCIAL AND HEALTH SERVICES SEMI-ANNUAL  
RULE-MAKING AGENDA FOR 2/1/98 THROUGH 7/21/98**

**AGING AND ADULT SERVICES ADMINISTRATION**

<b>WAC Chapter or Section Number</b>	<b>Purpose of rule being developed or amended:</b>
WAC 388-97-240, 245, 250, 255, 260, 265	To conform sections to changes in federal stature on Nursing Facilities PASARR requirements
WAC 388-97	Begin review of entire chapter as part of AASA/RCS regulatory review plan - mandated by the Governor's Executive Order
WAC 388-76-561(new section) also 590, 600, 610, 615	To comply with legislative mandates in RCW 70.128.060(6) and RCW 70.128.120(6) requiring DSHS to establish Adult Family Home licensing levels and to require providers to complete specialty care training before serving residents with special care needs
WAC 388-76-540, 550, 560, 570, 595, 605, 620, 635 655, 660, 665, 670, 675 680, 685, 690, 695, 705	Changes in these rules are needed to 1) eliminate faulty, confusing language; 2) make the regulations clearer and more easily understood; 3) make the regulations more reflective of current practice; and 4) ensure department expectations are clearly defined/understood
WAC 388-76-9970, 9972, 9974, 9976, 9978, 9980	Regulations related to the Adult Family Home moratorium
WAC 388-110	Begin review of entire chapter as part of AASA/RCS regulatory review plan – mandated by the Governor's Executive Order
WAC 388-76 WAC 388-110	Possible amendments to implement changes that may come out of this 1998 state legislature
WAC 388-96-(new section)	To establish in rule the federal public process required for changes to the nursing facility payment rate methodology. Source: 1997 Balanced Budget Act, Section 4711. CR-101 filed January 21, 1998.
WAC 388-96	Possible extensive revision to the entire chapter to implement changes to the nursing facility Medicaid payment system that may come out of this 1998 state legislature.
WAC 388-15-196, 202, 630, 830, 880, 890	Various technical changes to improve consistency and conform to law changes
WAC 388-15-209, 216, 610	Restrict eligibility due to budget shortfall
WAC 388-15-198	Possible revision (increase provider training requirements) due to proposed legislation
WAC 388-15-201(new section)	Long-Term Care Functional eligibility
WAC 388-15-??? (new section)	Provide details on caregiver central registry, per new law
WAC 388-15	Begin review of entire chapter as part of AASA review plan – mandated by the Governor's Executive Order – possible placement in a new chapter other than 388-15 WAC

MISC.

**DEPARTMENT OF SOCIAL AND HEALTH SERVICES**  
**SEMI-ANNUAL RULE-MAKING AGENDA FOR 2/1/98 THROUGH 7/31/98**

**CHILDREN'S ADMINISTRATION**

<b>WAC Chapter or Section Number</b>	<b>Purpose of rule being developed or amended.</b>
388-15-170	Update for consistency with welfare reform/Working Connections Child Care program
388-150-180, 200, 470	Revise to be consistent with 1997 budget proviso regarding annual and basic child care training
388-151-180, 200, 470	Revise to be consistent with 1997 budget proviso regarding annual and basic child care training
388-155-180, 200, 470	Revise to be consistent with 1997 budget proviso regarding annual and basic child care training

MISC.

**DEPARTMENT OF SOCIAL AND HEALTH SERVICES  
SEMI-ANNUAL RULE-MAKING AGENDA  
2/1/98 THROUGH 7/31/98**

**Economic Services Administration**

*Twice a year, the Administrative Procedure Act requires each agency to develop a draft list of rules under development and submit it to the Office of the Code Reviser for publication in the Washington State Register.*

<b>WAC Chapter or Section Number</b>	<b>Purpose</b>
Most appear in 388-310	✓ Rules related to the newly implemented WorkFirst program, may need to be amended as the program matures.
Most appear in Title 388	✓ In accordance with E.O. 97-02 and the Administrative Procedure Act, ESA and MAA have created a team to review all rules and manuals related to public assistance services. The goal is to streamline and simplify program requirements. Where duplication and redundancy exist, rules may be amended, repealed or new rules written.
388-14	✓ Rules related to license suspension for people who are delinquent in paying their child support obligations.
388-14	✓ Rules related to financial institution data matches done between the Division of Child Support and financial institutions.
388-290-010, 090	✓ Changes to the subsidized childcare program.
388-220-0050	✓ Changes to conform with WorkFirst changes.
388-14-200, 201, 202, 204, 270	✓ Changes child support rules.
388-49-550	✓ Changes to food stamp rules.
388-245-1150, 1510	✓ Changes to maintenance of grant programs.
388-310-1300	✓ Changes to WorkFirst rules.
388-218-1700, 1800, 1940	✓ Changed to conform with WorkFirst rule changes.
388-250-1700	✓ Changes to Supplemental Security Income standards.
388-215-1510	✓ Changes to rule relating to cooperation with quality control regarding aid to families with dependent children.
388-49-340	✓ Changes to rule relating to cooperation with quality control review regarding food assistance programs.

MISC.

**DEPARTMENT OF SOCIAL AND HEALTH SERVICES**  
**SEMI-ANNUAL RULE-MAKING AGENDA FOR 2/1/98 THROUGH 7/31/98**

**HEALTH AND REHABILITATIVE SERVICES ADMINISTRATION**

<b>WAC Chapter or Section Number</b>	<b>Purpose of rule being developed or amended</b>
WAC 490-500	Recodify amended rules for vocational rehabilitation services to people with disabilities repealed as a result of major revisions to governing federal regulations

MISC.

**DEPARTMENT OF SOCIAL AND HEALTH SERVICES**  
**SEMI-ANNUAL RULE-MAKING AGENDA FOR 2/1/98 THROUGH 7/31/98**

**JUVENILE REHABILITATION ADMINISTRATION**

<b>WAC Chapter or Section Number</b>	<b>Purpose of rule being developed or amended</b>
Chapter 275-30, Juvenile Parole Revocation	Rule-making process is in progress to make amendments based on statutory changes and Executive Order criteria.
Chapter 275-33, Transfer of Juvenile Offenders to DOC	Revise chapter as needed based on Executive Orders.
Chapter 275-46, Security Classification	To adopt additional statutory requirements and make amendments consistent with the Executive Orders.
Chapter 275-37, Division of Juvenile Rehabilitation Rules, Practices, and Procedures	Rules may be amended based on scheduled Executive Order review and inclusion of Basic Training Camp rules.

Note: This plan is subject to change based on statutory requirements and priorities resulting from the 1998 Legislative Session.

MISC.

**DEPARTMENT OF SOCIAL AND HEALTH SERVICES**  
**SEMI-ANNUAL RULE-MAKING AGENDA FOR 2/1/98 THROUGH**  
**7/31/98**

**MANAGEMENT SERVICES ADMINISTRATION**

<b>WAC Chapter or Section Number</b>	<b>Purpose of rule being developed or amended.</b>
NEW CHAPTER	Rules relating to interpretation and translation services.
248-554-030	Rule relating to shelters for victims of domestic violence - exemptions, separability, and notice and appeal.
275-26-020	Rule relating to community residential services and support - certification.
275-27-500	Rule relating to division of developmental disability services rules - adjudicative proceeding.
275-38-960	ICF/MR program and reimbursement system - administrative review—adjudicative proceeding.
275-57-270	Rule relating to community health programs - licensing procedures for service providers—application and approval.
388-08-410, 413, 437, 440, 464, 470, 515, 555, 575	Rules relating to practice and procedure—fair hearing.
388-17-100, 510	Rules relating to senior citizens services program - rights and responsibilities of applicants and recipients & the area agency on aging plan—administrative review process.
388-49-660, 690	Rules relating to intentional program violations—Administrative disqualification hearings, and fair hearings regarding food assistance programs.
388-73-036	Rule relating to licensure—denial, suspension, or revocation for child care agencies.
388-76-710	Rule regarding notice, hearing rights, and effective dates relating to imposition of remedies for adult family homes.
388-96-904	Rule relating to administrative review—adjudicative proceedings regarding nursing home accounting and reimbursement system
388-97-260, 270	Rules relating to PASARR determination and appeal rights, and individual transfer and discharge rights, procedures, and appeals for nursing homes.
388-98-750	Rule relating to notice and hearing rights regarding

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WAC Chapter or Section Number	Purpose of rule being developed or amended.
	nursing home licensure program administration.
388-110-270	Rule relating to notice, hearing rights, effective dates relating to imposition of remedies regarding contracted residential care services: assisted living services, enhanced adult residential care, and adult residential care.
388-320-460	Rules relating to final adjudicative and declaratory order index regarding public records disclosure.
490-500-580	Rules relating to Fair hearing--Adjudicative proceeding relating to vocational rehabilitation and services for individuals with disabilities.

MISC.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES  
SEMI-ANNUAL RULE-MAKING AGENDA FOR 2/1/98 THROUGH 7/31/98

MEDICAL ASSISTANCE ADMINISTRATION

WAC Chapter or Section	Purpose of rule being developed or amended
New WAC	Establish Medicare cost sharing eligibility standards for Qualified Individuals.
New Chapter	Establishment of a public notification WAC to comply with federal BBA97 public notice requirements.
388-41-020	Update; Department's Hospital and Medical Audit section are no longer with the Office of Nursing Home Hospital Audit.
388-86-030	Extend prior-authorized coverage of vision care products to all medical assistance clients.
388-86-047	Update hospice eligibility periods for medical assistance clients to comply with new Medicare rules; place providers' 5-day notification requirement into WAC.
388-86-100	Update Durable Medical Equipment (DME) requirements to: reflect current policy based on billing instructions & numbered memos; eliminate ambiguity with WAC 388-96 & -97 regarding DME equipment responsibility; eliminate associated lawsuits related to 90 day appeal action rule; and to place the burden of responsibility on the nursing facilities rather than the clients.
388-86-200	Eliminate some exceptions to exempted medical services
388-87-005	Update rule to conform with changes in standards for eligibility for payment (e.g., credentialing).
388-87-300	For possible repeal.
388-500-0005, 388-503-0310, 388-505-520, 388-507-0740, 388-510-1005 & 1020, 388-523-2305	Impacts from welfare and immigration reform.
388-510-1030	Considering sponsor's income when determining aliens' eligibility for services.
388-507-0710 and 388-513-1350	Increases federal participation level standards.
388-511-1160	Increases auto exemption: exempts Susan v. Walker lawsuit funds.
388-512-1275 and 388-529-2960	Corrects cross references. Incorporates 388-512-1280 into 388-512-1275 and repeals 388-512-1280.

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388-513-1315	Bases eligibility on "gross nonexempt" income instead of "countable" income, to comply with federal requirements.
388-513-1340	To comply with federal legislation.
388-513-1345	To comply with federal legislation.
388-515-1505	Modify personal needs allowance for certain SSI clients.
388-517-1740 and 388-521-2160	Expands Special-Low-Income Medicare Beneficiary (SLMB) coverage.
388-527	Amend several sections concerning Estate Recovery 1 joint project with OFR.
388-530-1600	Allows pharmacists to bill earlier.
388-535-1250	Eliminate prior authorization requirement for Cleft Lip and Palate orthodontia care for specific providers.
388-540-005, -030, and - 060	Increase resource limit to \$15,000 for Kidney Disease Program (KDP) eligibility.
388-550	<p>Possible method changes for implementation of PPS5 (these changes may be later than this review time period).</p> <p>Establishment of a WAC in this Chapter to add the Room Rate submission requirement(s). This may also require changes in the billing instruction.</p> <p>Possible establishment of a WAC in this Chapter to convert the Long Term Care pilot program into a regular program. This would also require changes in the billing instructions.</p>

**WSR 98-04-042**  
**NOTICE OF PUBLIC MEETINGS**  
**NOXIOUS WEED CONTROL BOARD**  
 [Memorandum—January 29, 1998]

The Washington State Noxious Weed Control Board 1998 meetings will be held as follows:

February 19, 1998  
 8:30 a.m. - 5:00 p.m.  
 General Administration Building  
 Room G-3  
 210 11th Avenue S.W.  
 Olympia, WA

March 17, 1998  
 8:30 a.m. - 4:30 p.m.  
 WSU - Tri-Cities  
 West Building, Room 252  
 2710 University Drive  
 Richland, WA

May 19, 1998  
 8:30 a.m. - 5:00 p.m.  
 Washington State Cattlemen's Association  
 1301 North Dollarway Road  
 Ellensburg, WA

July 21, 1998  
 8:30 a.m. - 5:00 p.m.

Yakima Nation Cultural Center  
 Heritage Inn Restaurant  
 Buster Road and Stilyay Loop  
 Toppenish, Washington

September 15, 1998  
 8:30 a.m. - 5:00 p.m.  
 The Cedar Inn  
 One Apple Way  
 Okanogan, WA

November 16-17, 1998  
 8:30 a.m. - 5:00 p.m.  
 Grant County Public Works Building  
 124 Enterprise Street S.E.  
 Ephrata, WA

The public is welcome to attend all meetings. Contact Lisa Lantz, Executive Secretary, Washington State Noxious Weed Control Board, (253) 872-2972, if you have any questions.

MISC.

WSR 98-04-046

AGENDA

DEPARTMENT OF TRANSPORTATION

[Filed January 30, 1998, 10:55 a.m.]

Department of Transportation  
Semi-Annual Rule Agenda  
January 1, 1998 - June 30, 1998

WAC Chapter	Chapter Title	Sections	Purpose of Rule	Agency Contact	Approx. CR-101 Filing Date
468-82	Regulations Regarding Pass-through of United States Urban Mass Transportation Administrative Funds for Public Transportation Technical Studies	All	Repeal Chapter 468-82 in its entirety	Paul Gamble (360) 705-7912	1/13/98
468-84	Regulations Regarding Advanced Financial Support Payments for the Conduct of Public Transportation Feasibility Studies	All	Repeal Chapter 468-84 in its entirety.	Paul Gamble (360) 705-7912	1/13/98
468-85	Regulations Regarding Advanced Financial Support Payments for the Development of Comprehensive Transit Plans	All	The existing Administrative Code has been confusing to non-technical people. Some of the requirements associated with implementing the statute need to be eliminated and others clarified.	Paul Gamble (360) 705-7912	1/13/98
468-18	State Aid	050-060-080	Clarifies Department of Transportation's working relationship with cities and counties.	Wayne Gruen (360) 705-7374	6/98
468-38	Vehicle Size & Weight--Restricted Highways--Equipment	100-110	Expansion and clarification of the WAC	Barry Diseth (360) 664-9497	3/98
		120	Allowing for 16 ft. wide manufactured homes on state highways.		3/98
		230	Reducing restrictions of days of permitted moves.		3/98

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Department of Transportation  
 Semi-Annual Rule Agenda  
 January 1, 1998 - June 30, 1998

WAC Chapter	Chapter Title	Sections	Purpose of Rule	Agency Contact	Approx. CR-101 Filing Date
468-38 (cont.)		260	To bring rule into compliance with current practice adopted to help preserve the public safety.		1/30/98
		290	Liberalization of permit requirements on farm implements.		2/98
		390	Clarification of WAC.		2/98
468-510	Lane Use Restrictions	010-020	To adopt a new chapter into the Washington Administrative Code on Lane Use Restrictions.	Dave Peach (360) 705-7280	1/30/98
468-51	Highway Access Management Access Permits—Administrative Process	Review All Sections	Clarification of WAC and implements RCW 47.50, Highway Access Management	Randy Deer (360) 705-7251	2/98
468-52	Highway Access Management— Access Control Classification System and Standards	Review All Sections	Clarification of WAC and implements RCW 47.50, Highway Access Management.	Randy Deer (360) 705-7251	2/98
468-54	Limited Access Hearings	Review All Sections	Clarification of WAC and implements RCW 47.52, Limited Access Facilities.	Randy Deer (360) 705-7251	2/98
468-58	Limited Access Highways	Review All Sections	Clarification of WAC and implement RCW 47.52, Limited Access Facilities.	Randy Deer (360) 705-7251	2/98

MISC.

## WSR 98-04-047

## AGENDA

## EMPLOYMENT SECURITY DEPARTMENT

[Filed January 30, 1998, 11:47 a.m.]

## Rule-making Agenda - January 1998

Subject: In-person filing requirements for UI benefits.

Division or Office Initiating Rule-making Activity: Unemployment Insurance Division.

WAC Sections Affected: WAC 192-12-141 (2), (4)(a), (5)(b), (11), and 192-23-018.

Description of Intended Rule-making Activity: Remove the requirement that initial claims, claims for waiting period credit, continued claims, and additional or reopened claims be filed in person. Authorize the use of the mail to file claims when the department deems appropriate.

Expected Public Participation: These amendments were tested as a pilot rule in Pierce County, and selected sites in King County. The report from the pilot study group indicates the pilot was a success and recommends the permanent rules be amended to allow initial and reopened claims to be filed by mail.

Tentative Schedule of Rule-making Activity:

Preproposal Notice of Intent (CR-101) - November 1994; modified March 1995.

Proposed Rule-Making (CR-102) - November 1997.

Public Hearings - December 1997.

Order Rule Adoption (CR-103) - February 1998.

Effective Date - March 1998.

Subject: Filing continued claims by telephone.

Division or Office Initiating Rule-making Activity: Unemployment Insurance Division.

WAC Sections Affected: WAC 192-12-005, 192-12-012, 192-12-141, 192-18-012, 192-23-800, 192-23-810, and 192-23-900. New sections in chapters 192-12 and 192-16 WAC.

Description of Intended Rule-making Activity: The department has been piloting an interactive voice response system to allow unemployment insurance claimants to file weekly benefit claims by telephone. The amendments clarify agency procedures relative to claims that are filed by telephone. They also clarify how vacation pay will be treated, and the methods for notifying claimants of reductions for unavailability.

Expected Public Participation: Initially proposed as a pilot study, the department eventually used the agency study process. The findings of the study will be shared with interested parties prior to the permanent amendment of the rules.

Tentative Schedule of Rule-making Activity:

Preproposal Notice of Intent (CR-101) - October 1995.

Proposed Rule-Making (CR-102) - March 1998.

Public Hearings - May 1998.

Order Rule Adoption (CR-103) - June 1998.

Effective Date - July 1998.

Subject: Timber retraining benefits.

Division or Office Initiating Rule-making Activity: Unemployment Insurance Division.

WAC Sections Affected: Amendments to chapter 192-32 WAC, Timber retraining benefits, including repeal of

four rules. New sections in chapter 192-33 WAC, Workforce training.

Description of Intended Rule-making Activity: Amend rules in chapter consistent with provisions of 2SHB 1201, passed by the 1997 legislature. Adopt rule defining salmon fishing workers eligible for services under chapter 50.70 RCW. Adopt rule clarifying persons eligible for services under RCW 50.12.270.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-making Activity:

Preproposal Notice of Intent (CR-101) - July 1997.

Proposed Rule-Making (CR-102) - December 1997.

Public Hearings - January 1998.

Order Rule Adoption (CR-103) - February 1998.

Effective Date - March 1998.

Subject: Unemployment benefits for pregnant claimants.

Division or Office Initiating Rule-making Activity: Unemployment Insurance Division.

WAC Sections Affected: New sections in chapter 192-16 WAC.

Description of Intended Rule-making Activity: Adopt rules requiring the department to provide a directive to claimants who leave work due to pregnancy; treat disability resulting from pregnancy the same as other medical disabilities when determining eligibility for unemployment benefits; consider whether an employer offered reasonable accommodation before deeming a claimant unavailable for work; and not deem a pregnant claimant unavailable for work solely because of a voluntary leave of absence.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-making Activity:

Preproposal Notice of Intent (CR-101) - May 1997.

Proposed Rule-Making (CR-102) - March 1998.

Public Hearings - May 1998.

Order Rule Adoption (CR-103) - June 1998.

Effective Date - July 1998.

Subject: Predecessor/successor relationships and reporting requirements.

Division or Office Initiating Rule-making Activity: Unemployment Insurance Division.

WAC Sections Affected: WAC 192-12-072 and a new section in chapter 192-12 WAC.

Description of Intended Rule-making Activity: Amend WAC 192-12-072 to state that the transfer of employees to an employee leasing company is not a predecessor/successor relationship for UI contribution purposes. Add a section specifying the number of days a partial successor has in which to notify the department of the percentage transferred, and the consequences to the employer for failure to do so.

Expected Public Participation: Input will be solicited from interested parties during the preproposal comment period.

Tentative Schedule of Rule-making Activity:

Preproposal Notice of Intent (CR-101) - July 1997.

Proposed Rule-Making (CR-102) - March 1998.

Public Hearings - April 1998.

Order Rule Adoption (CR-103) - April 1998.

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Effective Date - May 1998.

Subject: Waiver of penalties for delinquent contributions.

Division or Office Initiating Rule-making Activity: Unemployment Insurance Division.

WAC Sections Affected: WAC 192-12-042.

Description of Intended Rule-making Activity: Add a provision allowing waiver of penalties for delinquent contributions for employers who are subject to a voluntary audit as provided in RCW 43.05.140.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-making Activity: Preproposal Notice of Intent (CR-101) - July 1997.

Proposed Rule-Making (CR-102) - March 1998.

Public Hearings - April 1998.

Order Rule Adoption (CR-103) - April 1998.

Effective Date - May 1998.

Subject: Voluntary quit in lieu of reduction in force.

Division or Office Initiating Rule-making Activity: Unemployment Insurance Division.

WAC Sections Affected: WAC 192-16-070.

Description of Intended Rule-making Activity: Repeal rule which provides that a layoff or reduction in force will not be considered a voluntary quit in certain circumstances.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-making Activity: Preproposal Notice of Intent (CR-101) - October 1997.

Proposed Rule-Making (CR-102) - March 1998.

Public Hearings - April 1998.

Order Rule Adoption (CR-103) - April 1998.

Effective Date - May 1998.

Subject: Employer reports.

Division or Office Initiating Rule-making Activity: Unemployment Insurance Division.

WAC Sections Affected: WAC 192-12-030.

Description of Intended Rule-making Activity: Revise rule to eliminate obsolete reports required of employers.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-making Activity: Preproposal Notice of Intent (CR-101) - October 1997.

Proposed Rule-Making (CR-102) - March 1998.

Public Hearings - April 1998.

Order Rule Adoption (CR-103) - April 1998.

Effective Date - May 1998.

Subject: Timber retraining benefits.

Division or Office Initiating Rule-making Activity: Unemployment Insurance Division.

WAC Sections Affected: New sections in chapter 192-32 WAC.

Description of Intended Rule-making Activity: Adopt sections defining a base year employer as an interested party to a decision that an individual is eligible for timber retraining benefits.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-making Activity: Preproposal Notice of Intent (CR-101) - December 1997.

Proposed Rule-Making (CR-102) - April 1998.

Public Hearings - May 1998.

Order Rule Adoption (CR-103) - May 1998.

Effective Date - June 1998.

Subject: Shared work.

Division or Office Initiating Rule-making Activity: Unemployment Insurance Division.

WAC Sections Affected: Chapter 192-36 WAC.

Description of Intended Rule-making Activity: Review rules in accordance with Executive Order on Regulatory Improvement (97-02) and amend or repeal as necessary. Amend rules related to the shared work plan approval criteria; define certain terms contained in the statute; and clarify the employees eligible for participation in an approved plan.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-making Activity:

Preproposal Notice of Intent (CR-101) - March 1998.

Proposed Rule-Making (CR-102) - June 1998.

Public Hearings - July 1998.

Order Rule Adoption (CR-103) - July 1998.

Effective Date - August 1998.

Subject: Claimant information.

Division or Office Initiating Rule-making Activity: Unemployment Insurance Division.

WAC Sections Affected: WAC 192-24-030 and 192-24-020.

Description of Intended Rule-making Activity: Update information that will be provided to claimants in the claimant directive and the presentation of benefit rights.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-making Activity:

Preproposal Notice of Intent (CR-101) - April 1998.

Proposed Rule-Making (CR-102) - July 1998.

Public Hearings - August 1998.

Order Rule Adoption (CR-103) - August 1998.

Effective Date - September 1998.

Subject: Voluntarily leaving work.

Division or Office Initiating Rule-making Activity: Unemployment Insurance Division.

WAC Sections Affected: WAC 192-16-009, 192-16-011, 192-16-013, 192-16-015, 192-16-016, 192-16-017, and 192-23-052.

Description of Intended Rule-making Activity: Review rules in accordance with Executive Order on Regulatory Improvement (97-02) and amend or repeal as necessary. Convert policy statements to rules as needed.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-making Activity:  
Preproposal Notice of Intent (CR-101) - June 1998.  
Proposed Rule-Making (CR-102) - September 1998.  
Public Hearings - October 1998.  
Order Rule Adoption (CR-103) - October 1998.  
Effective Date - November 1998.

Subject: Misconduct.

Division or Office Initiating Rule-making Activity:  
Unemployment Insurance Division.

WAC Sections Affected: WAC 192-16-019, 192-23-051, and 192-23-061.

Description of Intended Rule-making Activity: Review rules in accordance with Executive Order on Regulatory Improvement (97-02) and amend or repeal as necessary. Convert policy statements to rules as needed.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-making Activity:  
Preproposal Notice of Intent (CR-101) - July 1998.  
Proposed Rule-Making (CR-102) - October 1998.  
Public Hearings - November 1998.  
Order Rule Adoption (CR-103) - November 1998.  
Effective Date - December 1998.

**WSR 98-04-048**  
**NOTICE OF PUBLIC MEETINGS**  
**WASHINGTON STATE LIBRARY**

(Library Commission)  
[Memorandum—January 29, 1998]

The Washington State Library Commission will meet as noted below:

DATE: Friday, February 13, 1998  
TIME: 8:30 a.m. to 9:30 a.m.  
LOCATION: State Superintendent of Public Instruction  
Old Capitol Building  
P.O. Box 47200  
Olympia, WA 98504-7200  
(360) 586-6904

The WSL Commission will reconvene as noted below:

DATE: Friday, February 13, 1998  
TIME: 10:00 a.m.  
SUBJECT: WSL Commission Workshop  
LOCATION: Washington State Library  
Joel M. Pritchard Library  
Olympia, Washington

For additional information please contact Cathy M. Stussy at (360) 753-2914 or FAX (360) 586-7575 or Internet cstussy@statelib.wa.gov.

**WSR 98-04-050**  
**NOTICE OF PUBLIC MEETINGS**  
**INTERAGENCY COMMITTEE**  
**FOR OUTDOOR RECREATION**

[Memorandum—January 29, 1998]

The Interagency Committee for Outdoor Recreation (IAC) will meet Thursday, March 12th, beginning at 8:30 a.m. in Room 175 of the Natural Resources Building in Olympia, Washington.

Agenda items include a WAC rule adoption, approval for 1998 National Recreational Trails Funding Act guidelines, and a public lands inventory project update. In addition, presentations and discussions are scheduled regarding: IAC's competitive grant evaluation processes, caps and lids for the boating, NOVA and WWRP programs, and draft guidelines for the youth athletic facilities program.

If you plan to participate or have materials for committee review, please submit information to IAC no later than February 19, 1998. 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 February 19 at (360) 902-3000 or TDD (360) 902-1996.

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**WSR 98-04-051**  
**AGENDA**  
**DEPARTMENT OF ECOLOGY**  
 [Filed January 30, 1998, 3:00 p.m.]

**DEPARTMENT OF ECOLOGY**  
 Semi-Annual Rule Agenda  
 January 31, 1998 - July 31, 1998

WAC CHAPTER	CHAPTER TITLE	AGENCY CONTACT	CR101 FILING DATE	APPROXIMATE ADOPTION DATE	SCOPE OF CHANGES/PURPOSE
<b>ADMINISTRATIVE SERVICES</b>					
173-03	Public Records	Jerry Thielen 407-7551	February 1998 Will use Expedited Adoption	April 1998	To update organization information such as names and addresses.
<b>AIR QUALITY</b>					
173-400-060, 075, 105, 115, 141	General Regulation for Air Pollution (Maximum Achievable Control Technology & Other Federal Standards Incorporated)	Elena Guilfoil 407-6855	March 1998	August 1999	Continuing incorporation of 1990 amendments to clean air act, and 1994 and 1995 EPA guidelines; ensure compatibility of state and federal requirements and further clarifications. Dry cleaners and other MACT Standards. Technical fixes that will bring in federal standards.
173-406	Acid Rain Regulation	Tom Todd 407-7528	April 1998	April 1999	Incorporate Federal changes to State rule
173-415 & 173-481	Primary Aluminum Plants Aluminum Maximum Achievable Control Technology/Reasonable Available Control Technology	Carol Plening 407-6858 Eric Oie 407-6915	May 1998	May 2000	To update MACT and RACT standards for aluminum smelters. Federally required.
173-420	Conformity of Transportation activities to air quality implementation plan (Transportation Conformity)	Paul Carr 407-6863	March 1998	October 1998	Meet requirements for reviewing conformity projects as required by Clean Air Act.
173-422	Motor Vehicle Emission Inspection	John Raymond 407-6856	April 1998	December 1998	Implement results of evaluation of I/M program; at minimum address model years targeted in Clark County, possibly other issues from more comprehensive evaluation currently underway. Changes in response to a State Rule Evaluation
173-425	Open Burning	Bruce Smith 407-6889	October 1997	October 1998	Incorporate statutory changes, streamline program. <u>State</u>

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**DEPARTMENT OF ECOLOGY**  
**Semi-Annual Rule Agenda**  
**January 31, 1998 -July 31, 1998**

WAC CHAPTER	CHAPTER TITLE	AGENCY CONTACT	CR101 FILING DATE	APPROXIMATE ADOPTION DATE	SCOPE OF CHANGES/PURPOSE
173-430	Agricultural Burning	Melissa Mceachron 407-6860	December 1997	June 1998	Evaluate and certify, if appropriate, alternatives to burning grass seed fields. Where certified alternatives are reasonably available burning is prohibited.
173-433	Solid Fuel Burning Devices	Melissa McEachron 509-456-5010	July 1998	November 1998	Incorporate legislative changes if proposed legislation passes.
173-434	Emissions Standards for solid Waste Incineration. General regulation for air pollution sources, Kraft Pulp Mill, Sulfite Pulp Mill, Solid Fuel Burning Device Standards (Hog Fuel Boilers RACT (Reasonable Available Control Technology	Peter Lyon 407-7530	March 1998	June 1999	To reduce dioxin risk from low-temperature combustion of salty wood. Combustion Source sections from the following rules will be consolidated into 434:173-400, 173-405, 173-410, 173-433. RCW 70.94.154. <u>State</u> . Federal standard anticipated.
173-434	Emission Standards for solid waste incineration (Municipal Waste Combustors)	Dan Clarkson 407-6867	February 1998	September 1998	Bring state requirements into line with the Federal Emissions Guidelines. Include a provision to allow substitution of performance criteria for emission standards. Federal requirement
173-434	Emission Standards for solid waste incineration (Medical Waste Combustors)	Dan Clarkson 407-6867	April 1998	July 1999	Bring state requirements into line with the Federal Emissions Guidelines. Federal requirement
173-460	Controls for New Sources of Toxic Air Pollution (New Source Review for Toxics)	Steve Cross 407-6875	June 1998	June 1999	To clarify and streamline rules. Phase 2 of new source review project, with same committee. Linked to 400. 1996 SSB 6466 State
173-475 173-470	Ambient Air Quality Standards for Carbon Monoxide, Ozone and Nitrogen Dioxide. Ambient Air Quality Standards for Particulate Matter	Marcia Geidel 407-6857	July 1998	November 1998	Adopt new federal standards into state rules.

DEPARTMENT OF ECOLOGY  
Semi-Annual Rule Agenda  
January 31, 1998 - July 31, 1998

WAC CHAPTER	CHAPTER TITLE	AGENCY CONTACT	CR101 FILING DATE	APPROXIMATE ADOPTION DATE	SCOPE OF CHANGES/PURPOSE
<b>EILS</b>					
173-50	Accreditation of Environmental Laboratories	Perry Brake 360-895-4649	March 1998	November 1998	Amend regulation for allowable fee increases and conformity in standards. Accreditation program.
<b>SHORELANDS &amp; ENVIRON. ASSISTANCE</b>					
173-25 NEW	Shoreline Management Act - streams and rivers, lakes, wetlands constituting shorelines of the state (SMA)	Don Bales 407-6528	October 1995	December 1998	Replacing 173-18, 173-20, 173-22. Regulatory Improvement
173-26 NEW Parts 3&4	Shoreline Master Program Guidelines	Peter Skowlund 407-6522	April 1998	December 1998	Shoreline Management Act/Growth Management Act integration. Regulatory Improvement.
173-204	Sediment Management Standards (Human Health Sediment Criteria )	Brett Betts 407-6914	June 1998	June 1999	Triennial rule review per federal/state requirement. Components: Human health criteria and Freshwater standards. Rule Revisions required by ESHB 1724. State
173-802	SEPA Procedures	Neil Aaland 407-7045	February 1998	May 1998	Revise Ecology's own SEPA procedures in response to changes in 197-11 State
197-11	SEPA Rules	Neil Aaland 407-7045	January 1997	April 1999	Revise Categorical Exemptions allowed under the State Environmental Policy Act Fed. And State.
197-11	SEPA Rules	Neil Aaland 407-7045	December 1995	June 1998	Finish revising environmental checklist (in response to ESHB 1724 and other changes)
173-806	Model Ordinance	Neil Aaland 407-7045	February 1996	April 1998	Revise optional model ordinance used by cities and counties to reflect recent changes in SEPA Rules

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**DEPARTMENT OF ECOLOGY**  
**Semi-Annual Rule Agenda**  
**January 31, 1998 - July 31, 1998**

WAC CHAPTER	CHAPTER TITLE	AGENCY CONTACT	CR101 FILING DATE	APPROXIMATE ADOPTION DATE	SCOPE OF CHANGES/PURPOSE
<b>SOLID WASTE AND FINANCIAL ASSISTANCE</b>					
173-NEW	Litter Grants	Pat Dice 407-6053	September 1998	January 1999	Implement and establish grants to local governments for litter pick-up. Legislative directive. (budget bill direction and RCW 70.93.250)
173-304	Minimum Functional Standards for Solid Waste Handling	Mike Hibbler 509-456-3270	June 1998	June 1999	To update rule to allow appropriate management of solid waste based upon current systems, generation rates, and standards. E.O. Regulatory Improvement
173-304	Minimum Functional Standards for Solid Waste Handling	Scott Carlson 360-407-6067	September 1998	June 1999	Review the rule against the biosolids rule (173-308) and eliminate inconsistencies between the rules.
173-321	Public Participation Grants	Trish Akana 407-7230	May 1997	May 1998	Implement \$60,000 grant program. Recommendation from the MTCA Policy Advisory Committee (see 173-340)
173-322	Remedial Action Grants	Trish Akana 407-7230	May 1997	May 1998	Implement brownfields grant program. Recommendation from the MTCA Policy Advisory Committee (see 173-340)
<b>TOXIC CLEANUP</b>					
173-340	Model Toxic Control Act Cleanup Regulation (MTCA)	Trish Akana 407-7230	May 1997	May 1998	Site Specific Assessment, Petroleum Cleanup Method, Ecological based Cleanup Standards, Remedy Selections, Cleanup Action Laws, Areawide Contamination & Brownfields, Public Participation in Cleanup, and Quality Assurance. To implement recommendations from the MTCA Policy Advisory Committee (a 22-member legislative task force charged with making statute and rule changes by 12/15/96. Regulatory Improvement. State
173-360	Underground Storage Tank Regulations	Mark Henderson	June 1998	November 1998	Revisions to reflect anticipated changes in state law.

DEPARTMENT OF ECOLOGY  
Semi-Annual Rule Agenda  
January 31, 1998 - July 31, 1998

WAC CHAPTER	CHAPTER TITLE	AGENCY CONTACT	CR101 FILING DATE	APPROXIMATE ADOPTION DATE	SCOPE OF CHANGES/PURPOSE
		407-6263			
<b>WATER QUALITY</b>					
173-98	Uses and Limitations of the Water Pollution Control Revolving Fund	Brian Howard 407-6510	June 1998	September 1998	Amend rule to improve our flexibility in providing effective & efficient financial assistance to public entities
173-202	Washington Forest Practice Rules and regulations to Protect Water Quality SUPPLEMENTAL	Doug Rushton 407-6180	February 1998	July 1998	Protection of aquatic resources while TFW negotiates concepts to be included in "forestry module" and rule.
<b>WATER RESOURCES</b>					
173-NEW	Water Right Transfers by Conservancy Districts	Peggy Clifford 407-7262	January 1998	September 1998	To establish criteria for establishment of conservancy districts, training of district commissioners, and transfer procedures and criteria. State
173-NEW	Water Rights Administration	Steve Hirschey 425-649-7066	July 1998	December 1999	Policies and procedures governing Ecology administration of the water rights program
173-500	Water Resources Management Program established pursuant to the Water Resources Act of 1971	Peggy Clifford 407-7262	March 1998	December 1998	Establish criteria for distribution of watershed planning grants. <i>Pending legislation HB 2514</i>
173-517	Quilcene Water Resource Program rules	Cynthia Nelson 407-0276	July 1995	September 1998	Recommendations of the Dungeness-Quilcene Regional Water Resources Plan and the Chelan Agreement. State
173-518	Dungeness Water Resource Program rules - WRIA 18	Cynthia Nelson 407-0276	July 1995	July 1998	Water Resources Management Program for the Sequim - Dungeness watershed. Instream flows, water conservation
173-548	Water Resource Program for Methow Basin --WRIA 48	John Monahan 509-457-7112	June 1995	December 1998	To implement pilot regional plan, including establishment of a water bank. Establish guidelines and procedures for the management and preservation of surface

MISC.

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DEPARTMENT OF ECOLOGY  
Semi-Annual Rule Agenda  
January 31, 1998 - July 31, 1998

WAC CHAPTER	CHAPTER TITLE	AGENCY CONTACT	CR101 FILING DATE	APPROXIMATE ADOPTION DATE	SCOPE OF CHANGES/PURPOSE
173-563	Columbia River Instream Protection	Thom Lufkin 407-6631	July 1998	December 1999	and ground water in the Methow River Basin. Recommendations by local water planning committee and ground water advisory committee. State  Negotiated rule-making on policies for future protection and allocation of Columbia River water.

**WSR 98-04-057**  
**AGENDA**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed January 30, 1998, 4:44 p.m.]

**The Department of Labor and Industries**  
**Semi-annual Rules Development Agenda (January 1, 1998 – June 30, 1998)**

1. Statement of Inquiry (CR-101) Date	2. Subject Area	Purpose of Rule
<b>INSURANCE SERVICES</b>		
1. 12/24/97		
2. Medical Aid Rule Updates - Conversion Factors/RBRVS, Chapter 296-20 WAC and Chapter 296-23 WAC		The conversion factor for calculating the reimbursement for services payable through the RBRVS fee schedule is amended annually.
3. Simone Stilson 902-4744		
1. 2/98		
2. Crime Victims Third Party Recoveries, Chapter 296-30-050 WAC		As part of the agency's rule review under Executive Order 97-02 this rule is being reviewed to determine whether it should be repealed, as it appears to be redundant.
3. Brian Huseby 902-5369		
1. 5/98		
2. Independent Mental Health Assessments, Chapter 296-31-069 WAC		As part of the agency's rule review under Executive Order 97-02 this rule is being reviewed to determine whether it should be updated or repealed.
3. Brian Huseby 902-5369		
<b>ADMINISTRATIVE SERVICES</b>		
1. 3/98		
2. Legal Services/Practice and Procedure, Chapter 296-08 WAC		As part of the agency's rule review under Executive Order 97-02, the department is reviewing this rule to determine whether it needs to be updated or has actually been replaced by the APA. If the APA controls we may be able to repeal a majority of the rule.
3. John Stanislav 902-4550		
1. 4/98		
2. Third Party Qualifications for Special Assistant Attorneys General, Chapter 296-14-920 WAC		As part of the agency's rule review under Executive Order 97-02, the department is amending these rules to allow out of state attorneys to pursue third party cases for the department. This amendment is considered a significant legislative rule amendment because it is a major change to departmental policy. The rule-making criteria would apply to these rules.
3. James Nylander 902-5118		
<b>WASHINGTON INDUSTRIAL SAFETY AND HEALTH (WISHA)</b>		
1. 8/94		
2. Pulp and Paper, Chapter 296-79 WAC		Per the request of the Labor Management Advisory Board, the department is amending the Pulp and Paper rules. The amendments will address changes in technology, process, equipment, employer training, hazard prevention for employees, lockout/tagout and permit required confined spaces. These amendments are considered significant because they amend our current program.
Chuck Blocher 902-5523, George King 902-5582 and Gail Hughes 902-5439		

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## The Department of Labor and Industries

### Semi-annual Rules Development Agenda (January 1, 1998 – June 30, 1998)

1. Statement of Inquiry (CR-101) Date	
2. Subject Area	
3. Contact/Telephone Number	Purpose of Rule
<ol style="list-style-type: none"> <li>1. 10/94</li> <li>2. Rigging Below the Hook, Chapter 296-155 WAC</li> <li>3. Chuck Blocher 902-5523 and Bob Kennedy 902-4669</li> </ol>	<p>The Construction Advisory Committee (CAC) is working with the department to make state initiated changes to the rule. The Construction Advisory Committee is made up of labor and business to assist WISHA with construction related safety matters. The CAC suggested amendments to help organize the rigging code in one area of the safety standard to create better clarity and format. No new requirements are contemplated.</p>
<ol style="list-style-type: none"> <li>1. 5/97</li> <li>2. Logging, Chapter 296-54 WAC</li> <li>3. Tom Ford 902-5428 and Laura Brand-Bauer 902-5545</li> </ol>	<p>These rules are being amended at the request of the logging industry. The Logging Advisory Committee is working with the department to update these rules. The rules will be rewritten using clear rule writing techniques.</p>
<ol style="list-style-type: none"> <li>1. 12/97</li> <li>2. Air Contaminants, Chapter 296-62 WAC</li> <li>3. Christy Wood 902-5524 and Dan Locke 902-5162</li> </ol>	<p>These rules are being reviewed and amended to bring them into compliance with an OSHA final rule.</p>
<ol style="list-style-type: none"> <li>1. 2/98</li> <li>2. Accident Prevention Plan, Chapter 296-24, 56, 78, 155, 305, 307 WAC</li> <li>3. Michael McCauley 902-5779 and Lou Flores 902-5237</li> </ol>	<p>As part of the agency's rule review under Executive Order 97-02 the department is reviewing rules requiring Accident Prevention Plans to determine whether a cross reference should be put in Chapter 296-24 WAC Accident Prevention Plan referring to all other chapters that contain Accident Plan requirements.</p>
<ol style="list-style-type: none"> <li>1. 2/98</li> <li>2. Longshore Marine Terminal, Chapter 296-56 WAC</li> <li>3. Cindy Ireland 902-5522 and Bob Kennedy 902-4669</li> </ol>	<p>These rules are being reviewed and amended to bring them into compliance with an OSHA final rule.</p>
<ol style="list-style-type: none"> <li>1. 2/98</li> <li>2. Mining, Chapter 296-61 WAC</li> <li>3. Chuck Blocher 902-5523 and Morris Payne 902-902-5569</li> </ol>	<p>As part of the agency's rule review under Executive Order 97-02 the department is reviewing these rules to determine whether they should be updated.</p>
<ol style="list-style-type: none"> <li>1. 2/98</li> <li>2. Abatement Verification, Chapter 296-24 WAC, Recordkeeping, Chapter 296-27 WAC, and Reassumption and Penalty Chapter 296-350 WAC</li> <li>3. Michael McCauley 902-5779</li> </ol>	<p>These rules are being reviewed and amended to bring them into compliance with an OSHA final rule. The federal final rule requires employers who have received a citation for violations of the OSH Act certify that they have abated the hazardous condition and they must inform their employees of their abatement actions. If abatement occurs during or immediately after the inspection, an abatement verification letter is not required. These rule amendments codify, simplify, and streamline abatement certification required by OSHA.</p> <p>State-initiated amendments are also being made to these rules for clarity. WISHA penalty requirements will be adopted into rule when the department adopts OSHA's abatement verification rule, reorganizes and updates the recordkeeping and reassumptions rules Chapter 296-27 WAC and Chapter 296-350 WAC.</p>
<ol style="list-style-type: none"> <li>1. 2/98</li> <li>2. Agriculture, Chapter 296-307 WAC</li> <li>3. Laura Brand-Bauer 902-5545 and Pedro Serrano 902-5419</li> </ol>	<p>The department is reviewing and amending these rules to adopt the legislature's definition of agriculture, address the OSHA "not a least as effective as" letter, and make housekeeping and technical corrections.</p>

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**The Department of Labor and Industries**  
**Semi-annual Rules Development Agenda (January 1, 1998 – June 30, 1998)**

1. Statement of Inquiry (CR-101) Date 2. Subject Area 3. Contact/Telephone Number	Purpose of Rule
1. 3/98 2. Scaffolding, Chapter 296-24 WAC 3. Cindy Ireland 902-5522 and Roger Dickey 902-5476	The department is amending these rules to bring them in line with Chapter 296-155 WAC on scaffolding.
1. 3/98 2. Respiratory Protection, Chapter 296-62 WAC 3. Christy Wood 902-5524 and Dan Locke 902-5162	The department is reviewing and amending these rules to bring them into compliance with an OSHA final rule.
1. 3/98 2. Explosives, Chapter 296-52 WAC 3. Chuck Blocher 902-5523 and Morris Payne 902-5569	The department is reviewing and amending these rules to make them at least as effective as OSHA rules on the same subject.
1. 6/98 2. Hazardous Waste Operations and Emergency Response, Chapter 296-62 WAC – Part P 3. Anne Foote-Soiza 902-5514 and Christy Wood 902-5524	As part of the agency's rule review under Executive Order 97-02, the proposal would create two separate rules for Part P of Chapter 296-62 WAC, Hazardous Waste Operations and Emergency Response (HAZWOPER). The goal of creating two separate rules is to eliminate confusion for employers as to when training and other operational requirements apply to employers involved with the "Hazardous Materials Emergency Response" versus "Hazardous Waste Operations."
<b>SPECIALTY COMPLIANCE SERVICES</b>	
1. 10/97 2. Regulations for Fees for Freight and Passenger Elevators, Chapter 296-86 WAC 3. Jan Gould 902-6128	As part of the agency's rule review under Executive Order 97-02, the department is considering increasing elevator fees by 4.05%. New fees may be proposed to cover the cost of services that the Elevator Program previously provided without charge. The entire chapter will be rewritten applying the clear rule writing techniques. If agency request legislation passes the 1998 legislative session, the rules would be updated to incorporate those legislative changes.
1. 10/97 2. Safety Standards – Installing Electric Wires, Chapter 296-46 WAC 3. Janet Lewis 902-5249	As part of the agency's rule review under Executive Order 97-02, the proposal increases the fees in this chapter by 4.05% and proposes new fees to cover the cost of services previously provided without charge. Labor and Industries will be proposing substantive changes to the rule. In addition, the department will also be proposing "New Wiring Method Tables" to replace this type of table repealed in a previous rule adoption.
1. 10/97 2. Certification of Competency for Journeyman Electricians, Chapter 296-401 WAC 3. Janet Lewis 902-5249	As part of the agency's rule review under Executive Order 97-02, the department is considering increasing the fees in this chapter by 4.05% and is proposing new fees to cover the cost of services previously provided without charge. Substantive changes to the rule are being proposed.

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## The Department of Labor and Industries Semi-annual Rules Development Agenda (January 1, 1998 – June 30, 1998)

1. Statement of Inquiry (CR-101) Date 2. Subject Area 3. Contact/Telephone Number	Purpose of Rule
<ol style="list-style-type: none"> <li>1. 10/97</li> <li>2. Certification of Competency for Journeyman Plumbers, Chapter 296-400A WAC</li> <li>3. Kevin Morris 902-5578</li> </ol>	<p>The department is amending this chapter to Implement Chapter 326, Laws of 1997 - Medical Gas Piping Installer Endorsement and Chapter 307, Laws of 1997 - Plumbers Advisory Board and to increase fees in this chapter by 4.05%. The medical gas piping installer endorsement amendments involve certification requirements, testing requirements, and related fees. The Plumbers Advisory Board amendments relate to size and composition of the board.</p>
<ol style="list-style-type: none"> <li>1. 10/97</li> <li>2. Contractors, Chapter 296-200A WAC; Commercial Coaches, Chapter 296-150C WAC; Factory Assembled Structures, Chapter 296-150F WAC; Manufactured Homes, Chapter 296-150M WAC; Park Trailer, Chapter 296-150P WAC; and Recreational Vehicles, Chapter 296-150R WAC</li> <li>3. Dan Wolfenbarger 902-5225</li> </ol>	<p>The department is proposing increasing the fees in these chapters by 4.05%. It is proposing new fees to cover the cost of services previously provided without charge for the Chapter 296-150C, 150F, 150M, 150P, and 150R WAC; and proposing a FAS electrical plan review fee and a reciprocal plan review fee for Commercial Coaches and for Factory Built Housing and Commercial Structures.</p>
<ol style="list-style-type: none"> <li>1. 10/97</li> <li>2. Code updates for Specialty Compliance Rules: Commercial Coaches, Chapter 296-150C WAC, Factory Assembled Structures, Chapter 296-150F WAC, and Manufactured Homes, Chapter 296-150M WAC</li> <li>3. Dan Wolfenbarger 902-5225</li> </ol>	<p>As part of the agency's rule review under Executive Order 97-02, these rules are being reviewed and updated to make them consistent with the state electrical code, the state building code, or with reciprocal agreements. In addition, the department is incorporating current policy into the rule and eliminating informational duplication in the rules.</p>
<ol style="list-style-type: none"> <li>1. 1/7/98</li> <li>2. Safety Rules Governing Elevators, Dumbwaiters, Escalators and other Lifting Devices,</li> <li>3. Chapter 296-81 WAC</li> <li>4. Jan Gould 902-6128</li> </ol>	<p>As part of the agency's rule review under Executive Order 97-02, the department is updating the content and code references of these rules. The entire chapter will be rewritten applying the clear rule writing techniques.</p>
<p><b>EMPLOYMENT STANDARDS</b></p>	
<ol style="list-style-type: none"> <li>1. 9/3/97</li> <li>2. Wearing Apparel, Chapter 296-126-098 WAC</li> <li>3. Greg Mowat 902-5310</li> </ol>	<p>As part of the agency's rule review under Executive Order 97-02 and in response to the Governor's 1997 veto message relating to proposed legislation on this issue, the department has initiated this rulemaking. A proposed amendment will not be published until the end of the 1998 legislative session, in anticipation of legislation on this subject.</p>
<ol style="list-style-type: none"> <li>1. 1/7/98</li> <li>2. Child Labor, Chapter 296-125-020 WAC, Chapter 296-125-028 WAC, Chapter 296-125-050 WAC, and Chapter 296-125-070 WAC</li> <li>3. Greg Mowat 902-5310</li> </ol>	<p>As part of the agency's rule review under Executive Order 97-02; the department is reviewing the following sections of the Child Labor Rules: Chapter 296-125-020, Minor Work Permits; Chapter 296-125-026, Parent/school authorization; Chapter 296-125-050, Posting, recordkeeping, and authority to enter, inspect and investigate; Chapter 296-125-060, Variances; and Chapter 296-125-070, Special Variances. These sections will be rewritten using clear rule writing techniques.</p>

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**The Department of Labor and Industries  
Semi-annual Rules Development Agenda (January 1, 1998 – June 30, 1998)**

1. Statement of Inquiry (CR-101) Date	2. Subject Area	3. Contact/Telephone Number	Purpose of Rule
<b>BOARD OF BOILER</b>			
1. 12/97			The Board of Boilers is proposing an increase to the boiler inspection fees by 4%.
2. Board of Boiler, Chapter 296-104 WAC			
3. Dick Barkdoll 902-5270			
1. 5/98			The Board of Boilers is amending its rules to make them clearer and consistent by applying clear rule writing techniques.
2. Board of Boiler, Chapter 296-104 WAC			
3. Dick Barkdoll 902-5270			

**WSR 98-04-058  
RULES COORDINATOR  
DEPARTMENT OF PERSONNEL  
[Filed February 2, 1998, 8:47 a.m.]**

The person listed below is designated as rules coordinator for the Department of Personnel and for the director of the Department of Personnel.

Rhonda Skinner  
Department of Personnel  
Office of Client Relations  
P.O. Box 47500  
Olympia, WA 98504-7500  
(360) 753-2701

If you have any questions regarding this matter, please contact Sharon Peck of the Department of Personnel. Sharon can be reached at 753-0468.

Dennis Karras  
Director

**WSR 98-04-074  
NOTICE OF PUBLIC MEETINGS  
BELLINGHAM TECHNICAL COLLEGE  
[Memorandum—February 4, 1998]**

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, February 19, 1998, 9-11 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 extension 334 for information.

**WSR 98-04-064  
NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF HEALTH  
(Board of Hearing and Speech)  
[Memorandum—January 29, 1998]**

The Board of Hearing and Speech has rescheduled the following 1998 board meeting dates as follows:

- March 20, 1998 has been changed to March 23, 1998.
- May 20, 1998 has been changed to May 5, 1998.
- June 19, 1998 has been added.
- July 17, 1998 has been cancelled.
- August 21, 1998 has been added.

If you have questions, please call (360) 586-8577.

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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
  - XA = Expedited adoption
  - XR = Expedited repeal
- Note: These filings will appear in a special section of Issue 98-09  
No suffix means permanent action

**WAC #** shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

**WSR #** shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-08-151	AMD-XA	98-04-082	51-11-0525	AMD	98-03-003	51-11-2007	AMD	98-03-003
16-102	PREP	98-04-075	51-11-0527	AMD	98-03-003	51-11-99903	AMD	98-03-003
16-167-010	AMD-XA	98-04-076	51-11-0530	AMD	98-03-003	51-11-99904	AMD	98-03-003
16-167-020	AMD-XA	98-04-076	51-11-0541	AMD	98-03-003	51-13-106	AMD	98-02-047
16-167-030	AMD-XA	98-04-076	51-11-0602	AMD	98-03-003	51-13-402	AMD	98-02-047
16-167-040	AMD-XA	98-04-076	51-11-0606	REP	98-03-003	51-13-502	AMD	98-02-047
16-167-050	AMD-XA	98-04-076	51-11-0607	REP	98-03-003	51-26-001	REP	98-02-055
16-167-060	AMD-XA	98-04-076	51-11-0608	REP	98-03-003	51-26-002	REP	98-02-055
16-168-010	AMD	98-03-089	51-11-0625	AMD	98-03-003	51-26-003	REP	98-02-055
16-168-020	AMD	98-03-089	51-11-0626	AMD	98-03-003	51-26-004	REP	98-02-055
16-168-030	AMD	98-03-089	51-11-0627	AMD	98-03-003	51-26-008	REP	98-02-055
16-168-040	AMD	98-03-089	51-11-0628	AMD	98-03-003	51-26-0300	REP	98-02-055
16-168-050	AMD	98-03-089	51-11-0629	AMD	98-03-003	51-26-0310	REP	98-02-055
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16-168-070	AMD	98-03-089	51-11-0701	AMD	98-03-003	51-26-0400	REP	98-02-055
16-168-075	NEW	98-03-089	51-11-0800	AMD	98-03-003	51-26-0401	REP	98-02-055
16-168-080	AMD	98-03-089	51-11-1002	AMD	98-03-003	51-26-0500	REP	98-02-055
16-168-090	AMD	98-03-089	51-11-1003	AMD	98-03-003	51-26-0503	REP	98-02-055
16-168-100	AMD	98-03-089	51-11-1004	AMD	98-03-003	51-26-0909	REP	98-02-055
16-532-010	AMD-P	98-02-073	51-11-1005	AMD	98-03-003	51-26-1000	REP	98-02-055
16-532-0402	REP-P	98-02-073	51-11-1006	AMD	98-03-003	51-26-1004	REP	98-02-055
16-532-0404	REP-P	98-02-073	51-11-1007	AMD	98-03-003	51-26-1007	REP	98-02-055
16-532-0406	REP-P	98-02-073	51-11-1008	AMD	98-03-003	51-26-1009	REP	98-02-055
16-532-0408	REP-P	98-02-073	51-11-1009	AMD	98-03-003	51-26-1020	REP	98-02-055
16-532-0410	REP-P	98-02-073	51-11-1010	REP	98-03-003	51-26-1301	REP	98-02-055
16-532-0412	REP-P	98-02-073	51-11-1120	AMD	98-03-003	51-26-1800	REP	98-02-055
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16-573-010	NEW	98-04-093	51-11-1132	AMD	98-03-003	51-26-1802	REP	98-02-055
16-573-020	NEW	98-04-093	51-11-1133	AMD	98-03-003	51-26-1803	REP	98-02-055
16-573-030	NEW	98-04-093	51-11-1210	AMD	98-03-003	51-26-1804	REP	98-02-055
16-573-040	NEW	98-04-093	51-11-1312	AMD	98-03-003	51-26-1810	REP	98-02-055
16-573-041	NEW	98-04-093	51-11-1323	AMD	98-03-003	51-26-1820	REP	98-02-055
16-573-050	NEW	98-04-093	51-11-1331	AMD	98-03-003	51-26-1830	REP	98-02-055
16-573-060	NEW	98-04-093	51-11-1334	AMD	98-03-003	51-26-1840	REP	98-02-055
16-573-070	NEW	98-04-093	51-11-1411	AMD	98-03-003	51-26-1845	REP	98-02-055
16-573-080	NEW	98-04-093	51-11-1412	AMD	98-03-003	51-26-1845	REP	98-02-055
16-752	PREP	98-04-077	51-11-1414	AMD	98-03-003	51-26-2200	REP	98-02-055
51-04-015	AMD	98-02-048	51-11-1421	AMD	98-03-003	51-26-2300	REP	98-02-055
51-04-070	AMD	98-02-048	51-11-1422	AMD	98-03-003	51-26-2301	REP	98-02-055
51-06-020	AMD	98-02-049	51-11-1423	AMD	98-03-003	51-27-001	REP	98-02-055
51-06-120	AMD	98-02-049	51-11-1433	AMD	98-03-003	51-27-002	REP	98-02-055
51-11-0101	AMD	98-03-003	51-11-1452	AMD	98-03-003	51-27-003	REP	98-02-055
51-11-0104	AMD	98-03-003	51-11-1454	AMD	98-03-003	51-27-004	REP	98-02-055
51-11-0201	AMD	98-03-003	51-11-1512	AMD	98-03-003	51-27-008	REP	98-02-055
51-11-0402	AMD	98-03-003	51-11-1530	AMD	98-03-003	51-30-001	REP	98-02-054
51-11-0502	AMD	98-03-003	51-11-1701	AMD	98-03-003	51-30-002	REP	98-02-054
51-11-0503	AMD	98-03-003	51-11-2005	AMD	98-03-003	51-30-003	REP	98-02-054
51-11-0504	AMD	98-03-003	51-11-2006	AMD	98-03-003	51-30-004	REP	98-02-054
						51-30-005	REP	98-02-054

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
51-30-007	REP	98-02-054	51-30-2902	REP	98-02-054	51-34-6100	REP	98-02-053
51-30-008	REP	98-02-054	51-30-2903	REP	98-02-054	51-34-6103	REP	98-02-053
51-30-009	REP	98-02-054	51-30-2904	REP	98-02-054	51-34-6104	REP	98-02-053
51-30-0100	REP	98-02-054	51-30-2910	REP	98-02-054	51-34-6105	REP	98-02-053
51-30-0104	REP	98-02-054	51-30-3102	REP	98-02-054	51-34-6106	REP	98-02-053
51-30-0200	REP	98-02-054	51-30-31200	REP	98-02-054	51-34-6107	REP	98-02-053
51-30-0204	REP	98-02-054	51-30-31201	REP	98-02-054	51-34-6301	REP	98-02-053
51-30-0207	REP	98-02-054	51-30-31202	REP	98-02-054	51-34-6302	REP	98-02-053
51-30-0217	REP	98-02-054	51-30-31203	REP	98-02-054	51-34-6303	REP	98-02-053
51-30-0220	REP	98-02-054	51-30-31204	REP	98-02-054	51-34-6304	REP	98-02-053
51-30-0300	REP	98-02-054	51-30-31205	REP	98-02-054	51-34-6305	REP	98-02-053
51-30-0302	REP	98-02-054	51-30-31206	REP	98-02-054	51-34-6306	REP	98-02-053
51-30-0304	REP	98-02-054	51-30-31207	REP	98-02-054	51-34-6307	REP	98-02-053
51-30-0305	REP	98-02-054	51-30-31208	REP	98-02-054	51-34-6308	REP	98-02-053
51-30-0307	REP	98-02-054	51-30-31209	REP	98-02-054	51-34-6309	REP	98-02-053
51-30-0310	REP	98-02-054	51-30-31210	REP	98-02-054	51-34-6310	REP	98-02-053
51-30-0313	REP	98-02-054	51-30-3400	REP	98-02-054	51-34-6311	REP	98-02-053
51-30-0400	REP	98-02-054	51-30-3404	REP	98-02-054	51-34-6312	REP	98-02-053
51-30-0403	REP	98-02-054	51-30-93115	REP	98-02-054	51-34-6313	REP	98-02-053
51-30-0405	REP	98-02-054	51-30-93116	REP	98-02-054	51-34-6314	REP	98-02-053
51-30-0500	REP	98-02-054	51-30-93117	REP	98-02-054	51-34-6315	REP	98-02-053
51-30-0510	REP	98-02-054	51-30-93118	REP	98-02-054	51-34-6316	REP	98-02-053
51-30-0600	REP	98-02-054	51-30-93119	REP	98-02-054	51-34-6317	REP	98-02-053
51-30-0601	REP	98-02-054	51-30-93120	REP	98-02-054	51-34-6318	REP	98-02-053
51-30-0800	REP	98-02-054	51-32-001	REP	98-02-056	51-34-6319	REP	98-02-053
51-30-0804	REP	98-02-054	51-32-002	REP	98-02-056	51-34-6320	REP	98-02-053
51-30-0900	REP	98-02-054	51-32-003	REP	98-02-056	51-34-6321	REP	98-02-053
51-30-0902	REP	98-02-054	51-32-004	REP	98-02-056	51-34-6322	REP	98-02-053
51-30-0904	REP	98-02-054	51-32-005	REP	98-02-056	51-34-6323	REP	98-02-053
51-30-1000	REP	98-02-054	51-32-007	REP	98-02-056	51-34-6324	REP	98-02-053
51-30-1001	REP	98-02-054	51-32-008	REP	98-02-056	51-34-7800	REP	98-02-053
51-30-1004	REP	98-02-054	51-32-0200	REP	98-02-056	51-34-7802	REP	98-02-053
51-30-1005	REP	98-02-054	51-32-0223	REP	98-02-056	51-34-7900	REP	98-02-053
51-30-1006	REP	98-02-054	51-32-0300	REP	98-02-056	51-34-7902	REP	98-02-053
51-30-1007	REP	98-02-054	51-32-0327	REP	98-02-056	51-34-7904	REP	98-02-053
51-30-1009	REP	98-02-054	51-32-0500	REP	98-02-056	51-34-8000	REP	98-02-053
51-30-1014	REP	98-02-054	51-32-0504	REP	98-02-056	51-34-8001	REP	98-02-053
51-30-1019	REP	98-02-054	51-32-0600	REP	98-02-056	51-34-8003	REP	98-02-053
51-30-1030	REP	98-02-054	51-32-0601	REP	98-02-056	51-34-9100	REP	98-02-053
51-30-1100	REP	98-02-054	51-32-0605	REP	98-02-056	51-34-9101	REP	98-02-053
51-30-1101	REP	98-02-054	51-32-1100	REP	98-02-056	51-34-9102	REP	98-02-053
51-30-1102	REP	98-02-054	51-32-1101	REP	98-02-056	51-34-9103	REP	98-02-053
51-30-1103	REP	98-02-054	51-32-1102	REP	98-02-056	51-34-9104	REP	98-02-053
51-30-1104	REP	98-02-054	51-32-1103	REP	98-02-056	51-34-9105	REP	98-02-053
51-30-1105	REP	98-02-054	51-32-1104	REP	98-02-056	51-34-9106	REP	98-02-053
51-30-1106	REP	98-02-054	51-32-1105	REP	98-02-056	51-34-9107	REP	98-02-053
51-30-1107	REP	98-02-054	51-32-1106	REP	98-02-056	51-34-9108	REP	98-02-053
51-30-1108	REP	98-02-054	51-32-1107	REP	98-02-056	51-35-001	REP	98-02-053
51-30-1109	REP	98-02-054	51-32-1108	REP	98-02-056	51-35-002	REP	98-02-053
51-30-1110	REP	98-02-054	51-32-1300	REP	98-02-056	51-35-003	REP	98-02-053
51-30-1111	REP	98-02-054	51-32-1312	REP	98-02-056	51-35-007	REP	98-02-053
51-30-1112	REP	98-02-054	51-32-1313	REP	98-02-056	51-35-008	REP	98-02-053
51-30-1113	REP	98-02-054	51-34-001	REP	98-02-053	51-35-52000	REP	98-02-053
51-30-1114	REP	98-02-054	51-34-002	REP	98-02-053	51-35-52400	REP	98-02-053
51-30-1120	REP	98-02-054	51-34-003	REP	98-02-053	51-35-52440	REP	98-02-053
51-30-1121	REP	98-02-054	51-34-007	REP	98-02-053	51-35-52441	REP	98-02-053
51-30-1122	REP	98-02-054	51-34-008	REP	98-02-053	51-35-52442	REP	98-02-053
51-30-1123	REP	98-02-054	51-34-0200	REP	98-02-053	51-35-52500	REP	98-02-053
51-30-1124	REP	98-02-054	51-34-0206	REP	98-02-053	51-35-52510	REP	98-02-053
51-30-1125	REP	98-02-054	51-34-0216	REP	98-02-053	51-35-52520	REP	98-02-053
51-30-1200	REP	98-02-054	51-34-0219	REP	98-02-053	51-35-52530	REP	98-02-053
51-30-1203	REP	98-02-054	51-34-0223	REP	98-02-053	51-35-52540	REP	98-02-053
51-30-1600	REP	98-02-054	51-34-0900	REP	98-02-053	51-35-52550	REP	98-02-053
51-30-1614	REP	98-02-054	51-34-0901	REP	98-02-053	51-35-52560	REP	98-02-053
51-30-1700	REP	98-02-054	51-34-0902	REP	98-02-053	51-35-52570	REP	98-02-053
51-30-1702	REP	98-02-054	51-34-1000	REP	98-02-053	51-35-52580	REP	98-02-053
51-30-1900	REP	98-02-054	51-34-1003	REP	98-02-053	51-35-52590	REP	98-02-053
51-30-1909	REP	98-02-054	51-34-1007	REP	98-02-053	51-35-52600	REP	98-02-053
51-30-2200	REP	98-02-054	51-34-2500	REP	98-02-053	51-40-001	NEW	98-02-054
51-30-2211	REP	98-02-054	51-34-2501	REP	98-02-053	51-40-002	NEW	98-02-054
51-30-2400	REP	98-02-054	51-34-5200	REP	98-02-053	51-40-003	NEW	98-02-054
51-30-2406	REP	98-02-054	51-34-5201	REP	98-02-053	51-40-004	NEW	98-02-054
51-30-2900	REP	98-02-054	51-34-5204	REP	98-02-053	51-40-005	NEW	98-02-054

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
51-40-007	NEW	98-02-054	51-42-0303	NEW	98-02-056	51-46-0500	NEW	98-02-055
51-40-008	NEW	98-02-054	51-42-0504	NEW	98-02-056	51-46-0501	NEW	98-02-055
51-40-009	NEW	98-02-054	51-42-0600	NEW	98-02-056	51-46-0502	NEW	98-02-055
51-40-0200	NEW	98-02-054	51-42-0601	NEW	98-02-056	51-46-0505	NEW	98-02-055
51-40-0302	NEW	98-02-054	51-42-0605	NEW	98-02-056	51-46-0507	NEW	98-02-055
51-40-0303	NEW	98-02-054	51-42-0901	NEW	98-02-056	51-46-0509	NEW	98-02-055
51-40-0304	NEW	98-02-054	51-42-1000	NEW	98-02-056	51-46-0512	NEW	98-02-055
51-40-0305	NEW	98-02-054	51-42-1002	NEW	98-02-056	51-46-0513	NEW	98-02-055
51-40-0307	NEW	98-02-054	51-42-1004	NEW	98-02-056	51-46-0514	NEW	98-02-055
51-40-0308	NEW	98-02-054	51-42-1005	NEW	98-02-056	51-46-0515	NEW	98-02-055
51-40-0310	NEW	98-02-054	51-42-1100	NEW	98-02-056	51-46-0516	NEW	98-02-055
51-40-0311	NEW	98-02-054	51-42-1101	NEW	98-02-056	51-46-0517	NEW	98-02-055
51-40-0313	NEW	98-02-054	51-42-1102	NEW	98-02-056	51-46-0518	NEW	98-02-055
51-40-0403	NEW	98-02-054	51-42-1103	NEW	98-02-056	51-46-0519	NEW	98-02-055
51-40-0405	NEW	98-02-054	51-42-1104	NEW	98-02-056	51-46-0520	NEW	98-02-055
51-40-0510	NEW	98-02-054	51-42-1105	NEW	98-02-056	51-46-0521	NEW	98-02-055
51-40-0804	NEW	98-02-054	51-42-1106	NEW	98-02-056	51-46-0522	NEW	98-02-055
51-40-0902	NEW	98-02-054	51-42-1107	NEW	98-02-056	51-46-0523	NEW	98-02-055
51-40-0904	NEW	98-02-054	51-42-1108	NEW	98-02-056	51-46-0524	NEW	98-02-055
51-40-1000	NEW	98-02-054	51-42-1311	NEW	98-02-056	51-46-0525	NEW	98-02-055
51-40-1002	NEW	98-02-054	51-42-1312	NEW	98-02-056	51-46-0600	NEW	98-02-055
51-40-1003	NEW	98-02-054	51-42-1401	NEW	98-02-056	51-46-0603	NEW	98-02-055
51-40-1004	NEW	98-02-054	51-44-001	NEW	98-02-053	51-46-0604	NEW	98-02-055
51-40-1007	NEW	98-02-054	51-44-002	NEW	98-02-053	51-46-0608	NEW	98-02-055
51-40-1091	NEW	98-02-054	51-44-003	NEW	98-02-053	51-46-0609	NEW	98-02-055
51-40-1100	NEW	98-02-054	51-44-007	NEW	98-02-053	51-46-0610	NEW	98-02-055
51-40-1101	NEW	98-02-054	51-44-008	NEW	98-02-053	51-46-0700	NEW	98-02-055
51-40-1102	NEW	98-02-054	51-44-0103	NEW	98-02-053	51-46-0701	NEW	98-02-055
51-40-1103	NEW	98-02-054	51-44-0200	NEW	98-02-053	51-46-0704	NEW	98-02-055
51-40-1104	NEW	98-02-054	51-44-0900	NEW	98-02-053	51-46-0710	NEW	98-02-055
51-40-1105	NEW	98-02-054	51-44-1003	NEW	98-02-053	51-46-0713	NEW	98-02-055
51-40-1106	NEW	98-02-054	51-44-1007	NEW	98-02-053	51-46-0793	NEW	98-02-055
51-40-1107	NEW	98-02-054	51-44-10210	NEW	98-02-053	51-46-0800	NEW	98-02-055
51-40-1108	NEW	98-02-054	51-44-1109	NEW	98-02-053	51-46-0810	NEW	98-02-055
51-40-1109	NEW	98-02-054	51-44-2500	NEW	98-02-053	51-46-0814	NEW	98-02-055
51-40-1110	NEW	98-02-054	51-44-5200	NEW	98-02-053	51-46-0815	NEW	98-02-055
51-40-1111	NEW	98-02-054	51-44-6100	NEW	98-02-053	51-46-0900	NEW	98-02-055
51-40-1112	NEW	98-02-054	51-44-6300	NEW	98-02-053	51-46-0903	NEW	98-02-055
51-40-1113	NEW	98-02-054	51-44-7404	NEW	98-02-053	51-46-1000	NEW	98-02-055
51-40-1114	NEW	98-02-054	51-44-7802	NEW	98-02-053	51-46-1003	NEW	98-02-055
51-40-1191	NEW	98-02-054	51-44-7900	NEW	98-02-053	51-46-1012	NEW	98-02-055
51-40-1192	NEW	98-02-054	51-44-8000	NEW	98-02-053	51-46-1300	NEW	98-02-055
51-40-1193	NEW	98-02-054	51-45-001	NEW	98-02-053	51-46-1301	NEW	98-02-055
51-40-1194	NEW	98-02-054	51-45-002	NEW	98-02-053	51-46-1302	NEW	98-02-055
51-40-1195	NEW	98-02-054	51-45-003	NEW	98-02-053	51-46-1303	NEW	98-02-055
51-40-1196	NEW	98-02-054	51-45-007	NEW	98-02-053	51-46-1304	NEW	98-02-055
51-40-1196	NEW	98-02-054	51-45-008	NEW	98-02-053	51-46-1305	NEW	98-02-055
51-40-1203	NEW	98-02-054	51-45-80400	NEW	98-02-053	51-46-1400	NEW	98-02-055
51-40-1616	NEW	98-02-054	51-46-001	NEW	98-02-055	51-46-1401	NEW	98-02-055
51-40-1702	NEW	98-02-054	51-46-002	NEW	98-02-055	51-46-1491	NEW	98-02-055
51-40-1909	NEW	98-02-054	51-46-003	NEW	98-02-055	51-46-97120	NEW	98-02-055
51-40-23110	NEW	98-02-054	51-46-007	NEW	98-02-055	51-46-97121	NEW	98-02-055
51-40-2406	NEW	98-02-054	51-46-008	NEW	98-02-055	51-46-97122	NEW	98-02-055
51-40-2900	NEW	98-02-054	51-46-0100	NEW	98-02-055	51-46-97123	NEW	98-02-055
51-40-2929	NEW	98-02-054	51-46-0101	NEW	98-02-055	51-46-97124	NEW	98-02-055
51-40-3004	NEW	98-02-054	51-46-0102	NEW	98-02-055	51-46-97125	NEW	98-02-055
51-40-3102	NEW	98-02-054	51-46-0103	NEW	98-02-055	51-46-97126	NEW	98-02-055
51-40-31200	NEW	98-02-054	51-46-0200	NEW	98-02-055	51-46-97127	NEW	98-02-055
51-40-3404	NEW	98-02-054	51-46-0205	NEW	98-02-055	51-46-97128	NEW	98-02-055
51-40-93115	NEW	98-02-054	51-46-0215	NEW	98-02-055	51-46-97129	NEW	98-02-055
51-40-93116	NEW	98-02-054	51-46-0218	NEW	98-02-055	51-47-001	NEW	98-02-055
51-40-93117	NEW	98-02-054	51-46-0300	NEW	98-02-055	51-47-002	NEW	98-02-055
51-40-93118	NEW	98-02-054	51-46-0301	NEW	98-02-055	51-47-003	NEW	98-02-055
51-40-93119	NEW	98-02-054	51-46-0310	NEW	98-02-055	51-47-007	NEW	98-02-055
51-40-93120	NEW	98-02-054	51-46-0311	NEW	98-02-055	51-47-008	NEW	98-02-055
51-42-001	NEW	98-02-056	51-46-0313	NEW	98-02-055	132H-160-052	AMD	98-03-044
51-42-002	NEW	98-02-056	51-46-0314	NEW	98-02-055	137-28-150	AMD	98-04-086
51-42-003	NEW	98-02-056	51-46-0316	NEW	98-02-055	137-28-190	AMD	98-04-086
51-42-004	NEW	98-02-056	51-46-0392	NEW	98-02-055	137-100-001	AMD-P	98-02-074
51-42-005	NEW	98-02-056	51-46-0400	NEW	98-02-055	137-100-010	AMD-P	98-02-074
51-42-007	NEW	98-02-056	51-46-0402	NEW	98-02-055	137-100-020	AMD-P	98-02-074
51-42-008	NEW	98-02-056	51-46-0412	NEW	98-02-055	137-100-030	AMD-P	98-02-074
51-42-0200	NEW	98-02-056	51-46-0413	NEW	98-02-055	137-100-040	NEW-P	98-02-074
51-42-0223	NEW	98-02-056						

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173-152	NEW-C	98-04-019	204-10-020	AMD	98-04-053	246-904	PREP	98-04-037
173-152-010	NEW-E	98-04-018	204-10-070	AMD	98-04-053	246-976-470	REP	98-04-038
173-152-020	NEW-E	98-04-018	204-10-090	AMD	98-04-053	246-976-475	REP	98-04-038
173-152-025	NEW-E	98-04-018	204-10-100	REP	98-04-053	246-976-480	REP	98-04-038
173-152-040	NEW-E	98-04-018	204-10-110	REP	98-04-053	246-976-485	NEW	98-04-038
173-152-050	NEW-E	98-04-018	204-10-130	REP	98-04-053	246-976-490	NEW	98-04-038
173-160	AMD-C	98-04-020	204-10-140	REP	98-04-053	246-976-500	AMD	98-04-038
173-162	AMD-C	98-04-020	204-10-150	REP	98-04-053	246-976-510	AMD	98-04-038
173-202-020	AMD-XA	98-03-071	204-72-030	AMD	98-04-054	246-976-520	AMD	98-04-038
173-202-020	AMD-S	98-04-021	204-72-040	AMD	98-04-054	246-976-550	AMD	98-04-038
173-202-020	AMD-W	98-04-069	204-90-030	AMD	98-04-052	246-976-560	AMD	98-04-038
173-224-030	AMD	98-03-046	204-90-040	AMD	98-04-052	246-976-570	AMD	98-04-038
173-224-040	AMD	98-03-046	204-90-070	AMD	98-04-052	246-976-600	AMD	98-04-038
173-224-050	AMD	98-03-046	204-90-120	AMD	98-04-052	246-976-610	AMD	98-04-038
173-303-017	AMD	98-03-018	204-90-140	AMD	98-04-052	246-976-615	NEW	98-04-038
173-303-040	AMD	98-03-018	212-17-185	AMD	98-04-007	246-976-620	NEW	98-04-038
173-303-045	AMD	98-03-018	212-17-21503	NEW	98-04-007	246-976-640	AMD	98-04-038
173-303-070	AMD	98-03-018	212-17-21505	NEW	98-04-007	246-976-650	AMD	98-04-038
173-303-071	AMD	98-03-018	212-17-21507	NEW	98-04-007	246-976-680	AMD	98-04-038
173-303-073	AMD	98-03-018	212-17-21509	NEW	98-04-007	246-976-690	AMD	98-04-038
173-303-077	AMD	98-03-018	212-17-21511	NEW	98-04-007	246-976-720	AMD	98-04-038
173-303-081	AMD	98-03-018	212-17-21513	NEW	98-04-007	246-976-730	AMD	98-04-038
173-303-082	AMD	98-03-018	212-17-21515	NEW	98-04-007	246-976-740	AMD	98-04-038
173-303-090	AMD	98-03-018	212-17-21517	NEW	98-04-007	246-976-770	AMD	98-04-038
173-303-100	AMD	98-03-018	212-17-21519	NEW	98-04-007	246-976-780	AMD	98-04-038
173-303-104	AMD	98-03-018	220-32-05100D	NEW-E	98-04-056	246-976-790	AMD	98-04-038
173-303-110	AMD	98-03-018	220-32-05100D	REP-E	98-04-056	246-976-810	AMD	98-04-038
173-303-120	AMD	98-03-018	220-32-05100D	REP-E	98-04-068	246-976-820	AMD	98-04-038
173-303-140	AMD	98-03-018	220-32-05100E	NEW-E	98-04-068	246-976-822	NEW	98-04-038
173-303-145	AMD	98-03-018	220-32-05100E	REP-E	98-04-068	246-976-830	AMD	98-04-038
173-303-160	AMD	98-03-018	220-32-05700X	NEW-E	98-04-006	246-976-840	AMD	98-04-038
173-303-180	AMD	98-03-018	220-32-05700X	REP-E	98-04-006	246-976-850	AMD	98-04-038
173-303-201	AMD	98-03-018	220-33-04000E	REP-E	98-04-067	246-976-860	AMD	98-04-038
173-303-210	AMD	98-03-018	220-33-04000F	NEW-E	98-04-067	246-976-870	NEW	98-04-038
173-303-230	AMD	98-03-018	220-48-00500G	NEW-E	98-02-039	246-976-880	REP	98-04-038
173-303-280	AMD	98-03-018	220-52-04000G	NEW-E	98-04-034	246-976-881	NEW	98-04-038
173-303-282	AMD	98-03-018	220-52-04600Z	NEW-E	98-04-034	246-976-885	AMD	98-04-038
173-303-300	AMD	98-03-018	220-52-07300A	NEW-E	98-04-035	246-976-890	AMD	98-04-038
173-303-350	AMD	98-03-018	220-52-07300V	REP-E	98-02-041	251-10-030	AMD	98-03-051
173-303-380	AMD	98-03-018	220-52-07300W	NEW-E	98-02-041	255-01-010	NEW-P	98-04-060
173-303-395	AMD	98-03-018	220-52-07300W	REP-E	98-03-001	255-01-020	NEW-P	98-04-060
173-303-400	AMD	98-03-018	220-52-07300X	NEW-E	98-03-001	255-01-030	NEW-P	98-04-060
173-303-505	AMD	98-03-018	220-52-07300X	REP-E	98-03-058	255-01-040	NEW-P	98-04-060
173-303-520	AMD	98-03-018	220-52-07300Y	NEW-E	98-03-058	255-01-050	NEW-P	98-04-060
173-303-522	NEW	98-03-018	220-52-07300Y	REP-E	98-04-010	255-01-060	NEW-P	98-04-060
173-303-573	NEW	98-03-018	220-52-07300Z	NEW-E	98-04-010	255-01-070	NEW-P	98-04-060
173-303-600	AMD	98-03-018	220-52-07300Z	REP-E	98-04-035	255-01-080	NEW-P	98-04-060
173-303-610	AMD	98-03-018	220-56-27000B	NEW-E	98-04-055	255-01-090	NEW-P	98-04-060
173-303-620	AMD	98-03-018	220-56-35000R	NEW-E	98-03-070	255-01-100	NEW-P	98-04-060
173-303-665	AMD	98-03-018	220-56-38000L	NEW-E	98-03-070	255-01-110	NEW-P	98-04-060
173-303-675	AMD	98-03-018	222-12-090	AMD-C	98-02-065	255-01-120	NEW-P	98-04-060
173-303-800	AMD	98-03-018	222-16-030	AMD-C	98-02-065	255-01-130	NEW-P	98-04-060
173-303-802	AMD	98-03-018	224-12-090	AMD-P	98-03-081	255-01-140	NEW-P	98-04-060
173-303-804	AMD	98-03-018	230-02-205	AMD-P	98-04-022	255-02-010	NEW-P	98-04-059
173-303-805	AMD	98-03-018	230-02-415	AMD	98-04-023	255-02-020	NEW-P	98-04-059
173-303-806	AMD	98-03-018	230-02-425	NEW	98-04-023	255-02-030	NEW-P	98-04-059
173-303-807	AMD	98-03-018	230-08-080	AMD	98-04-024	255-02-040	NEW-P	98-04-059
173-303-810	AMD	98-03-018	230-12-330	AMD-P	98-03-069	255-02-050	NEW-P	98-04-059
173-303-815	AMD	98-03-018	230-20-102	AMD	98-04-024	255-02-060	NEW-P	98-04-059
173-303-830	AMD	98-03-018	230-20-115	AMD	98-04-024	255-02-070	NEW-P	98-04-059
173-303-840	AMD	98-03-018	230-20-325	AMD-P	98-03-068	255-02-080	NEW-P	98-04-059
173-303-900	AMD	98-03-018	230-20-335	AMD-P	98-03-068	255-02-090	NEW-P	98-04-059
173-303-910	AMD	98-03-018	230-30-106	AMD-W	98-03-034	255-02-100	NEW-P	98-04-059
173-303-9903	AMD	98-03-018	232-12-61900A	NEW-E	98-02-040	255-02-110	NEW-P	98-04-059
173-303-9904	AMD	98-03-018	232-28-61900B	NEW-E	98-02-040	284-01-050	NEW	98-04-063
173-303-9905	AMD	98-03-018	232-28-61900B	REP-E	98-03-057	284-10	REP-C	98-03-004
173-460-060	AMD	98-04-062	232-28-61900C	NEW-E	98-03-057	284-10-010	REP	98-04-005
173-490-203	REP	98-04-061	246-249-010	AMD-XA	98-03-095	284-10-015	REP	98-04-005
180-16-002	AMD-P	98-04-088	246-249-090	AMD-XA	98-03-095	284-10-020	REP	98-04-005
180-16-180	REP-P	98-04-088	246-250-600	AMD-XA	98-03-095	284-10-030	REP	98-04-005
180-79A-220	AMD-P	98-04-089	246-282-005	AMD	98-03-096	284-10-050	REP	98-04-005
180-79A-420	PREP	98-04-087	246-316-990	AMD-E	98-04-090	284-10-060	REP	98-04-005
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284-10-140	REP	98-04-005	284-46	REP-C	98-03-004	308-93-420	PREP	98-03-026
284-17-300	REP-XA	98-04-084	284-46-020	REP	98-04-005	308-93-620	PREP	98-03-026
284-23	AMD-C	98-02-062	284-46-575	REP	98-04-005	308-93-630	PREP	98-03-026
284-23	AMD-C	98-03-076	284-51-180	REP-XA	98-04-084	308-93-640	PREP	98-03-026
284-23-200	AMD-P	98-04-083	284-58-040	REP-XA	98-04-084	308-94-030	AMD-P	98-04-072
284-23-210	AMD-P	98-04-083	284-58-050	REP-XA	98-04-084	308-94-040	REP-P	98-04-072
284-23-220	AMD-P	98-04-083	284-58-060	REP-XA	98-04-084	308-94-050	AMD-P	98-04-072
284-23-230	AMD-P	98-04-083	286-04-010	AMD-P	98-04-079	308-94-070	REP-P	98-04-072
284-23-235	NEW-P	98-04-083	286-04-060	AMD-P	98-04-079	308-94-080	AMD-P	98-04-072
284-23-240	AMD-P	98-04-083	286-06-065	AMD-P	97-04-079	308-94-090	REP-P	98-04-072
284-23-250	AMD-P	98-04-083	286-13-030	AMD-P	98-04-079	308-94-100	AMD-P	98-04-072
284-23-260	REP-P	98-04-083	286-13-040	AMD-P	98-04-079	308-94-110	REP-P	98-04-072
284-23-270	REP-P	98-04-083	286-13-045	AMD-P	98-04-079	308-96A-005	PREP	98-03-021
284-24-065	PREP	98-04-081	286-13-070	AMD-P	98-04-079	308-96A-010	PREP	98-03-021
284-36A-010	AMD-XA	98-04-085	286-13-085	AMD-P	98-04-079	308-96A-015	PREP	98-03-021
284-36A-020	AMD-XA	98-04-085	286-13-100	AMD-P	98-04-079	308-96A-021	PREP	98-03-021
284-36A-025	AMD-XA	98-04-085	286-26-020	AMD-P	98-04-079	308-96A-025	PREP	98-03-021
284-36A-030	REP-XA	98-04-085	286-26-110	AMD-P	98-04-079	308-96A-026	PREP	98-03-021
284-36A-040	NEW-XA	98-04-085	286-27-040	AMD-P	98-04-079	308-96A-035	PREP	98-03-021
284-36A-045	NEW-XA	98-04-085	286-27-055	AMD-P	98-04-079	308-96A-040	PREP	98-03-021
284-36A-050	NEW-XA	98-04-085	286-27-065	AMD-P	98-04-079	308-96A-065	AMD-P	98-04-071
284-36A-055	NEW-XA	98-04-085	286-27-075	AMD-P	98-04-079	308-96A-066	AMD-P	98-04-071
284-36A-060	NEW-XA	98-04-085	286-30-050	NEW-P	98-04-079	308-96A-067	NEW-P	98-04-071
284-36A-065	NEW-XA	98-04-085	286-35-060	AMD-P	98-04-079	308-96A-068	NEW-P	98-04-071
284-43	AMD-C	98-02-063	292-110-050	NEW	98-03-045	308-96A-070	AMD-P	98-04-071
284-43	AMD-C	98-03-004	292-110-060	NEW	98-04-001	308-96A-071	AMD-P	98-04-071
284-43	AMD	98-04-005	296-81	PREP	98-02-080	308-96A-073	AMD-P	98-04-071
284-43-040	REP	98-04-005	296-104-700	AMD-P	98-04-017	308-96A-074	AMD-P	98-04-071
284-43-100	REP	98-04-005	296-125	PREP	98-02-079	308-96A-074	AMD-P	98-04-071
284-43-110	NEW	98-04-005	296-307	PREP	98-04-094	308-96A-080	PREP	98-03-022
284-43-120	NEW	98-04-005	308-04-010	PREP	98-03-023	308-96A-085	PREP	98-03-022
284-43-130	NEW	98-04-005	308-04-020	PREP	98-03-023	308-96A-090	PREP	98-03-022
284-43-200	NEW	98-04-005	308-56A-005	PREP	98-03-024	308-96A-095	PREP	98-03-022
284-43-210	NEW	98-04-005	308-56A-010	PREP	98-03-024	308-96A-097	PREP	98-03-022
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284-43-340	NEW	98-04-005	308-56A-085	PREP	98-03-024	308-96A-340	AMD-P	98-04-014
284-43-700	NEW	98-04-005	308-56A-090	PREP	98-03-024	308-96A-341	NEW-P	98-04-014
284-43-710	NEW	98-04-005	308-93-060	PREP	98-03-026	308-300-310	REP	98-03-055
284-43-720	NEW	98-04-005	308-93-070	PREP	98-03-026	308-312-010	NEW	98-03-055
284-43-730	NEW	98-04-005	308-93-071	PREP	98-03-026	308-312-020	NEW	98-03-055
284-43-800	NEW	98-04-005	308-93-073	PREP	98-03-026	308-312-030	NEW	98-03-055
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284-43-925	NEW	98-04-011	308-93-085	PREP	98-03-026	308-312-100	NEW	98-03-055
284-43-930	NEW	98-04-011	308-93-110	PREP	98-03-027	314-64-08001	NEW-P	98-02-069
284-43-935	NEW	98-04-011	308-93-120	PREP	98-03-027	315-02-030	AMD-P	98-04-073
284-43-940	NEW	98-04-011	308-93-180	PREP	98-03-027	315-02-040	AMD-P	98-04-073
284-43-945	NEW	98-04-011	308-93-190	PREP	98-03-027	315-02-060	AMD-P	98-04-073
284-43-950	NEW	98-04-011	308-93-200	PREP	98-03-027	315-02-070	AMD-P	98-04-073
284-43-955	NEW	98-04-011	308-93-210	PREP	98-03-027	315-02-080	AMD-P	98-04-073
284-44	REP-C	98-02-063	308-93-215	PREP	98-03-027	315-02-170	REP-P	98-04-073
284-44	REP-C	98-03-004	308-93-220	PREP	98-03-027	315-02-180	REP-P	98-04-073
284-44-100	REP	98-04-011	308-93-230	PREP	98-03-027	315-02-220	AMD-P	98-04-073
284-44-110	REP	98-04-011	308-93-241	PREP	98-03-025	315-06-123	PREP	98-03-074
284-44-120	REP	98-04-011	308-93-242	PREP	98-03-025	315-10-010	AMD-P	98-04-073
284-44-130	REP	98-04-011	308-93-243	PREP	98-03-025	315-10-020	AMD-P	98-04-073
284-44-140	REP	98-04-011	308-93-244	PREP	98-03-025	315-10-023	NEW-P	98-04-073
284-44-150	REP	98-04-011	308-93-245	PREP	98-03-025	315-10-024	NEW-P	98-04-073
284-44-160	REP	98-04-011	308-93-285	PREP	98-03-026	315-10-025	AMD-P	98-04-073
284-44-190	REP	98-04-011	308-93-290	PREP	98-03-027	315-10-030	AMD-P	98-04-073
284-44-200	REP	98-04-011	308-93-295	PREP	98-03-027	315-11A-207	AMD	98-03-075
284-44-210	REP	98-04-011	308-93-300	PREP	98-03-026	315-11A-215	NEW	98-03-075
284-44-220	REP	98-04-011	308-93-330	PREP	98-03-026	315-11A-216	NEW	98-03-075
284-44-240	REP	98-04-005	308-93-350	PREP	98-03-026	315-11A-217	NEW	98-03-075
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315-36-060	NEW-P	98-04-073	388-15-222	AMD	98-04-026	388-512-1280	REP	98-03-004
315-36-070	NEW-P	98-04-073	388-15-300	REP	98-02-058	388-513-1315	AMD	98-04-003
315-36-080	NEW-P	98-04-073	388-15-310	REP	98-02-058	388-513-1380	AMD-P	98-03-085
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315-36-100	NEW-P	98-04-073	388-15-330	REP	98-02-058	388-523-2305	PREP	98-03-079
315-36-110	NEW-P	98-04-073	388-15-610	AMD	98-04-026	388-529-2960	AMD	98-04-004
315-36-120	NEW-P	98-04-073	388-15-830	AMD	98-04-026	388-540-005	AMD-P	98-02-059
315-36-130	NEW-P	98-04-073	388-15-880	AMD	98-04-026	388-540-030	AMD-P	98-02-059
315-36-140	NEW-P	98-04-073	388-15-890	AMD	98-04-026	388-540-060	AMD-P	98-02-059
315-36-150	NEW-P	98-04-073	388-15-895	NEW	98-04-026	390-17-400	PREP	98-03-072
317-01-010	REP	98-03-073	388-49-510	AMD	98-03-049	391-08	PREP	98-04-049
317-01-020	REP	98-03-073	388-49-550	AMD-P	98-04-039	391-25	PREP	98-04-049
317-01-030	REP	98-03-073	388-49-550	AMD-E	98-04-040	391-35	PREP	98-04-049
317-02-010	REP	98-03-073	388-49-560	REP-P	98-04-039	391-45	PREP	98-04-049
317-02-020	REP	98-03-073	388-49-560	REP-E	98-04-040	391-55	PREP	98-04-049
317-02-030	REP	98-03-073	388-49-570	REP-P	98-04-039	391-95	PREP	98-04-049
317-02-040	REP	98-03-073	388-49-570	REP-E	98-04-040	392-121-124	NEW-P	98-03-066
317-02-050	REP	98-03-073	388-49-580	REP-P	98-04-039	392-121-138	AMD-P	98-03-066
317-02-060	REP	98-03-073	388-49-580	REP-E	98-04-040	392-121-182	AMD-W	98-04-070
317-02-070	REP	98-03-073	388-76-540	AMD-S	98-02-077	392-134-005	AMD-W	98-04-070
317-02-080	REP	98-03-073	388-76-550	AMD-S	98-02-077	392-134-010	AMD-W	98-04-070
317-02-090	REP	98-03-073	388-76-560	AMD-S	98-02-077	392-134-020	AMD-W	98-04-070
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