

**MAY 6, 1998**

**OLYMPIA, WASHINGTON**

**ISSUE 98-09**



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## CITATION

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

## PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (360) 786-6697.

## REPUBLICATION OF OFFICIAL DOCUMENTS

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## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

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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 May 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

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## STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

### 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

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

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

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

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

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

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

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

### 4. EFFECTIVE DATE OF RULES

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

### 5. EDITORIAL CORRECTIONS

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

**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			
<i>For Inclusion in--</i>	<i>File no later than 12:00 NOON--</i>			<i>Count 20 days from--</i>	<i>For hearing on or after</i>	<i>First Agency Adoption Date</i>
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;

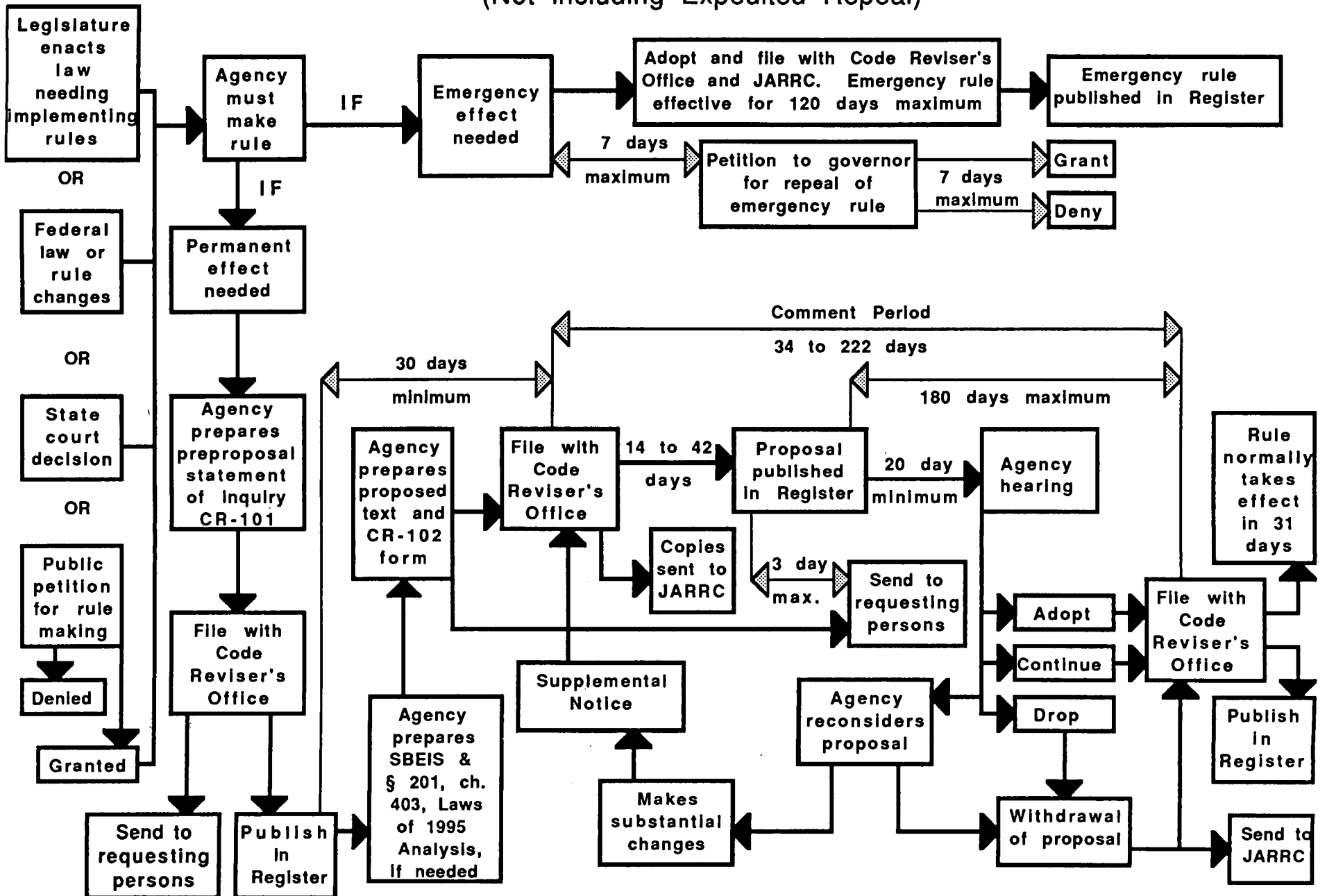
The rule REDUCES costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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 98-09-003**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**

[Filed April 2, 1998, 10:25 a.m.]

Subject of Possible Rule Making: Amend WAC 460-44A-504 to increase the aggregate offering amount and/or make other changes to that section consistent with state and federal law.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 21.20.320(9), 21.20.450.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 21.20.320(9) was amended during the 1997 legislative session to increase the director's exemptive authority from \$500,000 to \$5,000,000. WAC 460-44A-504 is adopted pursuant to this statutory section and is currently limited to aggregate offering of not more than \$500,000. Rule 504 of Regulation D, the federal counterpart to WAC 460-44A-504, is currently available for aggregate offerings of up to \$1,000,000.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The federal Securities and Exchange Commission (SEC) and each of the fifty states and the District of Columbia also regulate this area. Since one of the goals for any amendment to this regulation is increased uniformity, the regulations of those agencies will be taken into account in proposing any changes to this rule.

Process for Developing New Rule: Please see paragraph above. In addition, comments are solicited from the Division's Advisory Board and the WSBA Securities Committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting William M. Beatty, Securities Division, Department of Financial Institutions, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, FAX (360) 704-6923, e-mail [bbeatty@dfi.wa.gov](mailto:bbeatty@dfi.wa.gov), Securities Division Web Site <http://www.wa.gov/dfi/securities>.

April 2, 1998  
 Michael E. Stevenson  
 Securities Administrator

**WSR 98-09-004**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**

(Securities Division)

[Filed April 2, 1998, 10:27 a.m.]

Subject of Possible Rule Making: Adoption of NASAA model manual exemption.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 21.20.320(2), 21.20.450.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 21.20.320(2) was amended during the 1997 legislative session to grant the director rule making authority concerning nonissuer transac-

tions by registered salespersons of registered broker-dealers. The intent behind this amendment was to authorize the director to adopt the NASAA model manual exemption.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The federal Securities and Exchange Commission (SEC) and each of the fifty states and the District of Columbia also regulate this area. NASAA model regulations are not adopted by the NASAA membership until the opportunity to comment is afforded to both the membership and the public.

Process for Developing New Rule: Please see paragraph above.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting William M. Beatty, Securities Division, Department of Financial Institutions, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, FAX (360) 704-6923, e-mail [bbeatty@dfi.wa.gov](mailto:bbeatty@dfi.wa.gov), Securities Division Web Site <http://www.wa.gov/dfi/securities>.

April 2, 1998  
 Michael E. Stevenson  
 Program Manager

**WSR 98-09-009**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Health and Rehabilitative Services Administration)

[Filed April 6, 1998, 9:33 a.m.]

Subject of Possible Rule Making: To establish new rules for the inclusion of and access to residential habilitation centers in the spectrum of service options available to eligible persons served by the Division of Developmental Disabilities as required by SSB 6751.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 71A.12.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Division of [Developmental] Disabilities is required to establish necessary rules and policy to implement the following: Informing all eligible DDD persons of the full spectrum of services including residential habilitation centers; calculating the number and location of RHC vacancies available for admission; determination of eligibility for existing RHC vacancies based on an assessment of needs that require the funded resources that are provided by the center; and process for denial of admission and fair hearing rights.

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

Process for Developing New Rule: The Department of Social and Health Services is adopting emergency rules as required by statute. The Department of Social and Health Services welcomes the public to take part in developing the rule(s). Anyone interested in participating should contact the staff person indicated below. After the rule(s) is drafted, the Department of Social and Health Services will file a copy

with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to everyone currently on the mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sue Poltl, Division of Developmental Disabilities, P.O. Box 45310, Mailstop 45310, Olympia, WA 98504-5310, phone (360) 902-8474, e-mail POL-TLSE@DSHS.WA.GOV.

April 3, 1998

Edith M. Rice, Chief  
Office of Legal Affairs

### WSR 98-09-032

#### PREPROPOSAL STATEMENT OF INQUIRY

#### CLARK COLLEGE

[Filed April 10, 1998, 11:02 a.m.]

Subject of Possible Rule Making: Chapter 132N-300 WAC, Grievance procedure—Discrimination.

Statutes Authorizing the Agency to Adopt Rules on this Subject: To clarify college procedure for processing of informal and formal grievances filed on the basis of discrimination or harassment.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Required as a condition of receipt of federal financial assistance. See 34 C.F.R. § 104.7 ("Designation of responsible employee and adoption of grievance procedures", implementing Section 504, Rehabilitation Act of 1973, 29 U.S.C. § 794) and 34 C.F.R. § 106.8. See 34 C.F.R. § 106.8 ("Designation of responsible employee and adoption of grievance procedures," implementing Title IX of Education Amendments of 1972, 20 U.S.C. § 1681 et seq.). Federal regulations do not require that grievance procedures be exhausted before recourse is sought from the Department of Education; however, it is desirable and efficient in many cases for complainants to seek resolution of their complaints and disputes through available grievance procedures at the college level.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Office of Civil Rights, United States Department of Education, 2901 Third Avenue, Mailstop 106, Seattle, WA 98121; Equal Employment Opportunity Commission, 1321 Second Avenue, 7th Floor, Arcade Plaza, Seattle, WA 98101; Human Rights Commission, 1515 Second Avenue, Columbia Building, Suite 400, Seattle, WA 98101. Grievance procedures do not have to be exhausted before recourse is sought with these federal and state agencies.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Donna Kelly, Assistant Dean for Affirmative Action, Employment Opportunity, Clark College,

1800 East McLoughlin Boulevard, Vancouver, WA 98663, phone (360) 992-2355.

April 8, 1998  
Tana L. Hasart  
Interim President

### WSR 98-09-033

#### PREPROPOSAL STATEMENT OF INQUIRY UTILITIES AND TRANSPORTATION COMMISSION

[Filed April 10, 1998, 3:30 p.m.]

Subject of Possible Rule Making: Accommodate the changes in Washington telephone assistance program process through rule repeal or amendment. Docket No. UT-971664.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 80.36.440, 80.01.040, and 80.04.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 480-122-020 is obsolete because of changes to universal service and state telecommunications environments. The program methodology established in the rule is obsolete and the rule is no longer necessary. Existing statutes adequately address the state program specifics and requirements.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Federal Communications Commission has jurisdiction over matching and nonmatching support funding through the LIFELINE program. The Department of Social and Health Services is responsible for administering that program in Washington. The Washington Utilities and Transportation Commission is authorized to regulate and impose rules related to the subject of telecommunications. Those agencies will be invited to participate.

Process for Developing New Rule: Agency study; and the commission will ask for initial written comments, and will provide the opportunity for additional comments. The commission will schedule a workshop style meeting if comments indicate that such a session is needed and would be productive.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested persons may contact the Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, (360) 664-1174, FAX (360) 586-1150. Such persons may submit comments, as specified below, or may ask to be included in the commission's list of interested persons for the proceeding.

WRITTEN COMMENTS: Written comments in response to the CR-101 from persons interested in the subject matter of this proposed rule making may be filed with the Commission Secretary, referencing Docket No. UT-971664, not later than May 21, 1998. All commenters are asked, but not required, to file an original and ten copies of their written comments. The commission also requests, but does not require, that comments be provided on a 3 1/2 inch IBM formatted high-density disk, in WordPerfect version 5.1, 6.0, or 6.1, labeled with the docket number of this proceeding and the com-



menter's name and type of software used. The commission may offer additional opportunities to provide written comments. Interested persons may file additional written comments in response to any such invitation. The commission will schedule a workshop style meeting if comments indicate that such a session is needed and would be productive.

April 9, 1998

Paul Curl  
Acting Secretary

**WSR 98-09-036**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF REVENUE**

[Filed April 13, 1998, 1:36 p.m.]

Subject of Possible Rule Making: WAC 458-20-192  
Indians—Indian reservations.

WAC 458-20-192 has not been revised since 1980. The Department of Revenue is developing revisions to WAC 458-20-192. The following outline describes the major areas that have been identified for revision.

I. Introduction. The rule will describe the excise tax liability of Indians and non-Indians doing business and making transactions on and off of Indian reservations and trust land.

II. Definitions. Definitions will be provided for the following terms:

- (1) Indian reservation.
- (2) Indian tribe.
- (3) Indian.
- (4) Treaty fishery.
- (5) Value generated on the reservation.

III. Indian reservations. Direction will be given on how to obtain current information on federally recognized Indian tribes in the state of Washington. Persons will be directed to contact the Governor's Office of Indian Affairs for an up-to-date list of federally recognized Indian tribes in the state of Washington.

IV. Tax liability. The following broad areas of tax administration and tax policy will be addressed:

- (1) Exclusion from tax imposition.
- (2) Business registration requirements of Indian-owned businesses - what events trigger.
- (3) Tax collection duties of Indian persons doing business with non-Indian persons.
- (4) Federal preemption or infringement of tribal self-government and the resultant tax status of non-Indians doing business with Indian tribes.
- (5) Value generated on the reservation.
- (6) Resale certificates and exemption certificates.
- (7) Doing business through corporations, partnerships, joint ventures, or other forms of business.

V. Rules of construction. The rules of construction used in analyzing the application of tax laws to Indians and non-Indians doing business with Indians will be explained.

VI. Business transactions with Indians and by Indians. The application of the business and occupation (B&O) tax and retail sales tax and use tax as they apply to business activ-

ities conducted by or with Indians or Indian tribes, both on and off the reservation, will be described.

VII. Treaty fishery. The tax status of activities surrounding the treaty fishery will be described.

VIII. Tangible personal property or services, delivered on or off a reservation. The retail sales and use tax and its application to persons on and off of the reservation will be explained.

IX. Sales to business located in the reservation and owned by an Indian and a non-Indian. The tax status on the reservation of businesses owned by a joint venture or other type of entity in which one of the members is an Indian will be explained.

X. Miscellaneous taxes and issues. The following may be addressed:

- (1) Timber excise tax.
- (2) Real estate excise tax.
- (3) Motor vehicles or trailers.
- (4) Fish tax.
- (5) Gaming activities.
- (6) Cigarette tax.
- (7) Leasehold excise tax.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.300.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule is being revised to reflect changes in the state of the law. The rule was last revised in 1980.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The administration of state excise taxes is primarily administered by the Department of Revenue. The Department of Licensing administers the motor vehicle excise tax and fuel taxes. The Liquor Control Board enforces the cigarette excise tax and the tobacco products tax, but the Liquor Control Board does not administer these taxes. These agencies will be included in this rule-making process.

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments should be submitted by the public meeting date to ensure full consideration, but will be accepted if they are received two weeks before the date of adoption. Written comments may be submitted by mail, FAX, or at the public meeting. Oral comments will be accepted at the public meeting or later public hearing. This hearing is intended to solicit input before going forward with rule making. The outline above is a listing of the major areas identified as out of date and needing to be updated. The public meeting is an opportunity to comment on these areas as well as provide comment on other areas. The department is soliciting input before going forward with a draft rule. The previously scheduled meeting on May 13th has been canceled and rescheduled to June 1.

Written comments on and/or requests for copies of the rule outline may be directed to Leslie Cushman, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 664-0057, FAX (360) 664-0693.

Location and Date of Public Meeting: General Administration Building, 1st Floor Auditorium, 11th and Columbia, Olympia, Washington, on June 1, 1998, at 10 a.m.

April 13, 1998  
Russell W. Brubaker  
Assistant Director

### WSR 98-09-038

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING

[Filed April 13, 1998, 2:05 p.m.]

Subject of Possible Rule Making: Chapter 308-96A WAC, Vehicle licenses, disabled person special parking privileges, WAC 308-96A-306, 308-96A-310, 308-96A-315, 308-96A-320, 308-96A-325, 308-96A-330, and 308-96A-335.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.16.276, 46.01.110.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as a result of this review in accordance with EO 97-02.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties are invited to participate in this rule making. Please contact Patrick J. Zlateff, Contracts manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, phone (360) 902-3718, FAX (360) 664-0831, TDD (360) 664-8885. Comments are requested by May 6, 1998.

April 10, 1998  
Nancy S. Kelly, Administrator  
Title and Registration Services

### WSR 98-09-043

#### PREPROPOSAL STATEMENT OF INQUIRY SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed April 14, 1998, 3:55 p.m.]

Subject of Possible Rule Making: State funding for vocational secondary education including required staff/student ratios and a limit on indirect charges to vocational programs.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.150.290 and Section 502 (a)(c)(iii).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules are necessary to implement changes to state funding as required by the 1997-99 Operating Appropriations Act. Indirect charges to voca-

tional programs are limited. A minimum staff/student ratio is required for enhanced staff allocations.

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 contacting Allen H. Jones, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504, (360) 753-6708. Send written comments to Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504-7200, FAX (360) 753-4201, TDD (360) 664-3631.

April 14, 1998  
Dr. Terry Bergeson  
Superintendent of  
Public Instruction

### WSR 98-09-062

#### PREPROPOSAL STATEMENT OF INQUIRY SECRETARY OF STATE

(Corporations Division)

[Filed April 17, 1998, 3:22 p.m.]

Subject of Possible Rule Making: Changes and clarifications to the Washington Electronic Authentication Act, chapter 19.34 RCW.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 19.34 RCW, including RCW 19.34.030, 19.34.040, 19.34.100, 19.34.101, 19.34.110, 19.34.111, 19.34.120, 19.34.211, 19.34.250, 19.34.290, 19.34.291, 19.34.400, 19.34.500.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Pursuant to the amendment of chapter 19.34 RCW, chapter 33, Laws of 1998, and to ensure the effective implementation of the Electronic Authentication Act, adoption of these rules will: Clarify requirements relating to recognition and licensure of foreign certification authorities and repositories; clarify requirements relating to operative personnel for other states wishing to become licensed in Washington; and technical housekeeping changes deemed necessary for the implementation of the Electronic Authentication Act.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Hans Dettling, Corporations Division, Office of the Secretary of State, 505 East Union, P.O. Box 40234, 2nd Floor, Olympia, WA 98504-0234, (360) 586-0393, FAX (360) 664-8781, e-mail hans@secstate.wa.gov.

April 17, 1998  
Tracy Guerin  
Assistant Secretary of State

**WSR 98-09-063**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed April 17, 1998, 4:28 p.m.]

Subject of Possible Rule Making: Chapter 296-04 WAC, Rules and regulations of the Washington State Apprenticeship and Training Council.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 49.04 RCW, Apprenticeship Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Washington State Apprenticeship and Training Council has authorized the department, in conjunction with the council, to update chapter 296-04 WAC, rewrite it in an understandable clear rule-writing style, bring it into compliance with federal standards and propose amendments which will enable the rule to be generally accepted by industry, labor and apprentices.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: United States Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training is the agency with federal oversight over apprenticeship programs. The council and department plan to work closely with representatives from BAT in developing any rule proposals.

Process for Developing New Rule: Any proposed apprenticeship rule language will be developed by a representative ad hoc committee chaired by the apprenticeship program manager and according to Executive Order 97-02 criteria. Once the rule proposal has been developed it will be promulgated according to RCW 49.04.010 and the Administrative Procedure Act and in compliance with the Regulatory Fairness Act. Interested parties are invited to submit ideas to the program manager and are encouraged to participate in the public hearing process. Interested parties should contact the apprenticeship program to make sure they are on the program's stakeholder mailing list.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Nancy Mason, Program Manager, Apprenticeship, Department of Labor and Industries, P.O. Box 44530, Olympia, WA 98504-4530, phone (360) 902-5320, FAX (360) 902-4248. See above.

April 16, 1998  
 Melinda Nichols  
 Chair

**WSR 98-09-065**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**BOARD OF BOILER RULES**

[Filed April 20, 1998, 8:37 a.m.]

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

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.79.030 and 70.79.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 296-104-600, 296-104-800, 296-104-510, 296-104-801, 296-104-805, 296-104-265, 296-104-520, 296-104-530, 296-104-701, and 296-104-405, rewritten in clear rule writing, reformatted for clarification, renumbered for consistency.

WAC 296-104-010, add definitions.

WAC 296-104-285, delete, duplication.

WAC 296-104-525, delete, covered in NBIC.

WAC 296-104-307, new, Installation—What safety devices are required on boilers and pressure vessels? Previously covered under WAC 296-104-515. Adds requirements for evaluation by Washington state professional engineer and acceptance by chief inspector.

WAC 296-104-100 Inspection—Frequency of inspections, possible adoption of TAPPI TIS 0402-16, most recent edition, for pulp and paper industry.

WAC 296-104-102 Inspection—Standards for inservice inspection, adopts 1998 Edition of the National Board Inspection Code (NBIC) and the eighth edition of API-510. Possible adoption of TAPPI TIS 0402-16, most recent edition, for pulp and paper industry.

WAC 296-104-200 Construction—Standards for new construction, adopts 1998 edition of A.S.M.E. Proposes recognizing national board registered vessels built under international codes as acceptable as a standard for new construction and use in the state of Washington.

WAC 296-104-310 Installation—Where should the discharge from safety valves, blow offs and drains be directed? Adds pressure vessels or headers to requirements.

WAC 296-104-805 Repairs—What are the requirements for nuclear repairs of safety devices? Adds endorsement requirement for inspector.

WAC 296-104-502 Repairs—Nonnuclear and alterations to boilers and pressure vessels, adds requirement for authorization by the chief inspector for organizations with valid ASME certificate of authorization to perform repairs/alterations.

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

Process for Developing New Rule: Board of Boiler Rules study of existing rules for consistency with nationally accepted codes and standards, clarification, and clear rule writing incorporating suggestions and comments from stakeholders.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dick Barkdoll, Chief Boiler Inspector, Secretary to the Board of Boiler Rules, P.O. Box 44410, Olympia, WA 98504-4410, (360) 902-5270, FAX (360) 902-5272. Board of Boiler Rules regular meeting, May 19, 1998, 10:00 a.m., Bellevue L&I Office, 616 120th Avenue N.E., Suite C201; and public hearing, September 15, 1998, 10:00 a.m., Labor and Industries Building, 7273 Linderson Way S.E., Tumwater.

April 20, 1998  
 Daryl A. Hoffman  
 Chairman

**WSR 98-09-073**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF LICENSING**

[Filed April 21, 1998, 10:20 a.m.]

Subject of Possible Rule Making: Auctioneer/company license fee increase and housekeeping for clarity and consistency.

Auctioneer: Initial application from \$110 to \$114; renewal from \$110 to \$114; and late renewal penalty \$100 to \$104.

Auction company: Initial application from \$250 to \$260; renewal from \$250 to \$260; and late renewal penalty \$200 to \$208.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 18.11 RCW, RCW 43.24.086, 43.135.055.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Program operating costs must be supported by revenue received which is currently insufficient. The 4% limit imposed by Initiative 601 will improve the revenue deficit. The other rules synchronize the renewal dates for auctioneer and company; revise duplicate language found in the RCW; revise inspection and audit rule for clarity, with no major changes to content; and update the mailing and physical address of the program. All changes are of a minor nature, and do not change the meaning or intent of the rules. These changes are based on the rules review held by the Department of Licensing and attended by licensed auctioneers.

Process for Developing New Rule: Agency study, fee study; and review of all rules pursuant to the Governor's Executive Order #97-02.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Teri Osborn, Department of Licensing, Business and Professions Division, Auctioneer Section, P.O. Box 9649, Olympia, WA 98507-9649, FAX (360) 664-2550. Notification will be sent to random sampling of licensees, the auctioneer association, and interested parties.

April 14, 1998  
Teri Osborn  
WMS Manager

**WSR 98-09-074**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF LICENSING**

[Filed April 21, 1998, 10:21 a.m.]

Subject of Possible Rule Making: Court reporter license fee increase.

Original application from \$125 to \$130; renewal from \$100 to \$104; and late renewal penalty from \$100 to \$104.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 18.145 RCW, RCW 43.24.086, 43.135.055.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Program operating costs must be supported by revenue received which is currently

insufficient. The 4% limit imposed by Initiative 601 will partially improve revenue deficit.

Process for Developing New Rule: Agency study, fee study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Notification will be sent to the Certified Shorthand Reporter Association, the Stenomask Association, the Association of Washington Business, the Independent Business Association, and other interested parties. Send written or faxed comments to Teri Osborn, Department of Licensing, Business and Professions Division, Court Reporter Section, P.O. Box 9027, Olympia, WA 98507-9027, FAX (360) 664-2550.

April 14, 1998  
Teri Osborn  
WMS Manager

**WSR 98-09-075**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF LICENSING**

[Filed April 21, 1998, 10:22 a.m.]

Subject of Possible Rule Making: Employment agency main office and branch office renewal fee increase and housekeeping for clarity and consistency.

Employment Agency - Main: Renewal - from \$600 to \$950. Origination - from \$725 to \$825.

Employment Agency - Branch: Renewal - from \$500 to \$850. Origination - from \$500 to \$600.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 19.31 RCW, RCW 43.24.086, ESSB 6108, chapter 346, Laws of 1998.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Program operating costs must be supported by the revenue received, which is currently insufficient. The exception to Initiative 601 (ESSB 6108) will improve the deficit. The rules being repealed are to eliminate duplicate language found in the RCW. All other rules are being revised for clarity and to simplify the language and requirements with no major changes to content or the intent of the rules. These changes are based on the rules review public meeting held by the Department of Licensing and public comments received in writing.

Process for Developing New Rule: Agency study (fee study); review of all rules pursuant to the Governor's Executive Order 97-02.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Harumi Tucker Tolbert, Department of Licensing, Business and Professions Division, Collection Agency Section, P.O. Box 9649, Olympia, WA 98507-9649, FAX (360) 664-2550. Notification will be sent to all licensees and interested parties.

April 15, 1998  
Harumi Tucker Tolbert  
Program Manager

**WSR 98-09-076**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF LICENSING**

[Filed April 21, 1998, 10:23 a.m.]

Subject of Possible Rule Making: License fee increase, 8% original registration from \$3000 to \$3240; 8% additional resorts from \$500 to \$540; 8% renewal company from \$1000 to \$1080; and 8% additional resort from \$350 to \$380 (rounded down).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 19.105.411, 43.24.086, ESSB 6108, chapter 346, Laws of 1998.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Program operating costs to be supported by revenue received. Current fees are not enabling the program to be self supporting.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Office of Attorney General.

Process for Developing New Rule: Financial analysis, exception to 601 requirements.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michael W. Schneider, Department of Licensing, Business and Professions Division, Camping Resort Section, P.O. Box 9649, Olympia, WA 98507-9649, FAX (360) 664-2550.

April 21, 1998  
Mary Jelvik  
Administrator

**WSR 98-09-077**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF LICENSING**

[Filed April 21, 1998, 10:25 a.m.]

Subject of Possible Rule Making: Rule review.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 18.185 RCW, the laws relating to bail bond agents.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule revisions on this subject are needed to better meet the intention of the law and to clarify the procedures provided in the rules.

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 Pat Brown, Department of Licensing, Business and Professions Division, P.O. Box 9649, Olympia, WA 98507-9649, FAX (360) 753-3747.

April 22 [21], 1998  
Pat Brown  
Administrator

**WSR 98-09-078**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF LICENSING**

[Filed April 21, 1998, 10:27 a.m.]

Subject of Possible Rule Making: Increasing fees in excess of the fiscal growth factor.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 18.170 RCW, the laws relating to security guards and ESSB 6108, chapter 346, Laws of 1998.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Increasing fees in excess of the fiscal growth factor is necessary to defray the costs of the administration of the program as set forth in RCW 43.24.086.

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 financial analysis.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by writing or FAX to Pat Brown, Department of Licensing, Business and Professions Division, P.O. Box 9649, Olympia, WA 98507-9649, FAX (360) 753-3747.

April 10, 1998  
Pat Brown, Administrator  
Business and Professions Division

**WSR 98-09-079**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF LICENSING**

[Filed April 21, 1998, 11:17 a.m.]

Subject of Possible Rule Making: Rule review.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 67.08 RCW, the laws relating to boxing, sparring, and wrestling.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule revisions on this subject are needed to clarify processes and procedures.

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 Pat Brown, Department of Licensing, Business and Professions Division, P.O. Box 9649, Olympia, WA 98507-9649, FAX (360) 753-3747.

April 21, 1998  
Pat Brown  
Administrator

**WSR 98-09-081**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF COMMUNITY,**  
**TRADE AND ECONOMIC DEVELOPMENT**

[Filed April 21, 1998, 2:20 p.m.]

**Subject of Possible Rule Making:** To adopt the Department of Community, Trade and Economic Development (CTED) rules governing the long-term care ombudsman program (LTCOP) which will be consistent with applicable changes in federal and state statutes. The new rules will replace chapter 388-18 WAC, the current governing rules under the administrative jurisdiction of the state's Department of Social and Health Services (DSHS).

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 43.190.030, as amended by chapter 194, Laws of 1997. The amended statute is entitled "Office of state long-term care ombudsman created—Powers and duties—Rules".

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** 1. Current rules were adopted when the LTCOP was still within DSHS and therefore do not reflect the legislature's direction that the program be privatized, nor do they provide for CTED's need to contract for the LTCOP.

2. The Federal Older Americans' Act (OAA) provisions have changed and current rules do not allow for the LTCOP to exercise all of the authority provided by the reauthorized OAA. For example, the reauthorized OAA allows ombudsman access to records to be granted without consent when all three of the following conditions exist: (1) The resident does not have the capacity to make their own decisions, (2) there is an allegation that the surrogate decision-maker is not acting in the best/expressed interests of the resident, and (3) the surrogate decision-maker will not give consent to review records. The current WAC does not grant that access authority.

3. Current rules do not reflect the legislature's intent that volunteers work in facilities only when there is a local, paid supervising ombudsman.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** The Federal Administration on Aging supervises the national LTCOP through each state's federally-required "State Unit on Aging" (SUA). SUAs are mandated to assure their LTCOP's compliance with federal requirements. The SUA for Washington state is housed in DSHS. CTED has an interagency agreement with DSHS to ensure the coordination of program compliance issues, and to provide federal funds for state-wide program operation. SUA staff have been and will continue to be included in all phases of the rule-making process. SUA staff were given the earliest opportunity to provide input on the first preliminary draft of the proposed rules, will be kept apprised of ongoing developments, and will be included in all stakeholder group discussions.

**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 Steven Springer, LTCOP Program

Manager, Department of Community, Trade and Economic Development, 906 Columbia Street S.W., P.O. Box 48300, Olympia, WA 98504-8300, phone (360) 586-1364, FAX (360) 586-0489, Internet e-mail address steves@cted.wa.gov.

**Information Exchanges:** A stakeholder's meeting to discuss draft rules has been scheduled for May 13, 1998, from 10:00 a.m. to noon in the First Floor Conference Room at CTED's Davis-Williams Building in Olympia (corner of Ninth and Columbia). An official public hearing will be scheduled for late June. Other information exchanges will be scheduled as needed.

April 21, 1998  
 Tim Douglas  
 Director

**WSR 98-09-082**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**ARTS COMMISSION**

[Filed April 21, 1998, 2:45 p.m.]

**Subject of Possible Rule Making:** WAC 30-22-070, 30-22-090, 30-08-070, 30-18-040, 30-12-150, and 30-04-020.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 43.46.040.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** To clarify.

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

**Process for Developing New Rule:** Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bill Palmer, P.O. Box 42675, Olympia, WA 98504-2675, phone (360) 753-3860, FAX (360) 586-5351, e-mail BillP@wsac.wa.gov, commission meeting.

April 21, 1998  
 Bill Palmer  
 Acting Executive Director

**WSR 98-09-091**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed April 21, 1998, 3:51 p.m.]

**Subject of Possible Rule Making:** Chapter 392-141 WAC.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 28A.150.290.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The amendment will allow school districts more flexibility in reporting the transportation service of basic students on a special needs route.

**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, Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, FAX (360) 753-4201, TDD (360) 664-3631. For telephone assistance contact Roger Eastman, Director, (360) 753-0235.

April 20, 1998  
Dr. Terry Bergeson  
Superintendent of  
Public Instruction

### WSR 98-09-092

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)

[Filed April 21, 1998, 3:54 p.m.]

Subject of Possible Rule Making: Chapter 275-25 WAC, County plan for mental health, developmental disabilities; chapter 275-26 WAC, Community residential services and support; chapter 275-27 WAC, Division of developmental disabilities services rules; chapter 275-31 WAC, Division of developmental disabilities program option rules; chapter 275-38 WAC, ICF/MR program and reimbursement system; and chapter 275-41 WAC, Work programs for residents of residential habilitation centers in DDD.

Statutes Authorizing the Agency to Adopt Rules on this Subject: DDD receives statutory authority to adopt rules from many sources, including: RCW 7.70.065, chapters 11.92, 18.88A, 26.44, 34.05 RCW, RCW 43.20A.400-[43.20A.]430, 43.43.830-[43.43.]845, chapters 70.24, 70.58, 70.96A, 70.122, 70.124, 70.129, 70.195, 71.20 RCW, Title 71A RCW, RCW 74.09.120, chapters 74.15, 74.34, 74.42 RCW and 42 CFR 483. Specific statutory authority will be provided for each rule filing that follows from this Preproposal Statement of Inquiry.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Governor Gary Locke's Executive Order 97-02 requires review of all state regulations that have significant impact to ensure that they meet standards of need, reasonableness, effectiveness, clarity, fairness, stakeholder involvement, coordination among regulatory agencies and consistency with legislative intent and statutory authority. In accordance with the Executive Order, DDD is currently reviewing these WACs.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Health and Human Services; Washington State Department of Health; Washington State Office of Superintendent of Public Instruction, and Department of Health. Copies for comment will be provided to staff contacts. All comments will be considered.

Process for Developing New Rule: DDD will announce opportunities for public participation through meeting invita-

tions, inclusion on mailing lists for public comment, and other documents to stakeholders, including: Customers, service providers, self-advocates and families, county coordinators, coordinating agencies and other interested parties. Public input will be gathered from interested parties who attend meetings or submit written comments. All comments will be considered. These rules and public comments will be reviewed by the DDD Regulatory Improvement Steering Committee (RISC) before adoption.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Chris Coleman, Regulatory Improvement Manager, Division of Developmental Disabilities, P.O. Box 45310, Olympia, WA 98504-5310, phone (360) 902-8478, e-mail [ColemNC@dshs.wa.gov](mailto:ColemNC@dshs.wa.gov), FAX (360) 902-8482, TTY users contact Tonya Mickelson, TTY (360) 902-8449. Interested parties can contact Chris Coleman, Program Manager, using any means of communication.

April 17, 1998  
Edith M. Rice, Chief  
Office of Legal Affairs

### WSR 98-09-093

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)

[Filed April 21, 1998, 3:56 p.m.]

Subject of Possible Rule Making: Revisions to WAC 440-26-010, 440-26-210, and 440-26-215 (and related sections) to provide employers with large numbers of short-term employees, increased incentive to apply for drug-free workplace discount program certification.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.82.130.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 440-26-210 requires employers to obtain (and pay for) a preemployment drug test every time a new employee comes on the payroll. This provides a financial disincentive for employers who hire employees for short terms, such as those engaged in construction, to apply for certification as a drug-free workplace. Adopting this provision would encourage additional employers to implement drug-free workplace programs, and, through them, would provide increased opportunity for rehabilitation for employees who might not otherwise be afforded this opportunity.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington Department of Labor and Industries (L&I) cooperates with the Department of Social and Health Services in the administration of this program. Several representatives of L&I participate in stakeholder committee activities considering this revision.

Process for Developing New Rule: Meet with stakeholder committee made up of affected constituencies: Agencies, organizations (business and professional), consumers,

etc. The Department of Social and Health Services welcomes the public to take part in developing these rules. Anyone interested in participating should contact the staff person indicated below. After the rules are drafted, the Department of Social and Health Services will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to everyone currently on the mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Henry Govert, Drug-free Workplace Specialist, Division of Alcohol and Substance Abuse, P.O. Box 45330, Olympia, WA 98504-5330, phone (360) 438-8092, FAX (360) 438-8078.

April 17, 1998  
Edith M. Rice, Chief  
Office of Legal Affairs

#### WSR 98-09-094

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)  
[Filed April 21, 1998, 3:57 p.m.]

Subject of Possible Rule Making: WAC 275-27-030 Determination of eligibility, 275-27-810 Eligible persons, and 275-27-820 Community alternatives program (CAP)—Services. To modify community alternatives program (CAP) waiver WAC and the section of WAC related to medically intensive home care services eligibility to increase administrative efficiency and flexibility.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 71A.12.030, 71A.16.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Existing rules limit flexibility and administrative efficiency. These modifications will facilitate consolidation of the division's Title XIX waivers and increase the flexible use of staff in the administration of the division's Title XIX waiver program.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Title XIX waiver programs are regulated by the Health Care Financing Administration (HCFA). The division's CAP waiver renewal request (which must be approved by the HCFA) will reflect these changes.

Process for Developing New Rule: The Department of Social and Health Services welcomes the public to take part in these rule changes. Anyone interested in participating should contact the staff person indicated below. After the rule changes are drafted, the Department of Social and Health Services will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to everyone currently on the mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending comments to Dave Langenes, Department

of Social and Health Services, Division of Developmental Disabilities, P.O. Box 45310, Olympia, WA 98504-5310, phone (360) 902-8476, e-mail Langedj@DSHS.WA.GOV.

April 21, 1998  
Edith M. Rice, Chief  
Office of Legal Affairs

#### WSR 98-09-096

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT

[Filed April 22, 1998, 9:12 a.m.]

Subject of Possible Rule Making: Update and amend chapter 365-110 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 43.330 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule is needed to eliminate obsolete references contained in the current WAC section.

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 Department of Community, Trade and Economic Development, Attn: Tim Nogler, 906 Columbia Street S.W., P.O. Box 48300, Olympia, WA 98506-8300.

April 22, 1998  
Tim Douglas  
Director

#### WSR 98-09-102

#### PREPROPOSAL STATEMENT OF INQUIRY LOTTERY COMMISSION

[Filed April 22, 1998, 10:19 a.m.]

Subject of Possible Rule Making: Quinto and Lotto rules.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The lottery is considering amending WAC 315-33A-060 and 315-34-060 to change the drawing dates for Quinto and Lotto and/or allow for an increased number of drawing days per week.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary Jane Ferguson, Rules Coordinator, at (360) 753-1947, FAX (360) 586-6586, P.O. Box



43025, Olympia, WA 98504-3025, with any comments or questions regarding this statement of intent.

April 22, 1998  
Mary Jane Ferguson  
Rules Coordinator

**WSR 98-09-113**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF HEALTH**

[Filed April 22, 1998, 11:23 a.m.]

**Subject of Possible Rule Making:** Reporting of cases of pesticide poisoning, gunshot wounds, and cancer.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 70.104.030, 43.70.545, and 70.54.270.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Rule making in this area is designed to coordinate and integrate public health reporting systems. Currently there are over seventy different reportable diseases and conditions in Washington. These diseases and conditions are reported to the department through several different tracks, there is not a single, coordinated entry point to public health for health care providers and facilities to report. There are also many diseases that are currently notifiable, that in today's world are not public health surveillance priorities. Additionally there are several diseases that are not currently notifiable that public health has seen the need to collect.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** The State Board of Health also has rule-making authority to designate diseases and conditions as notifiable. This project is designed to review all of those regulations simultaneously, and to develop a system that is best suited to the needs of consumers, reporters and the public health system.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Greg Smith, Legislative/Regulatory Affairs Coordinator, Community and Family Health, Washington State Department of Health, P.O. Box 47830, Olympia, WA 98504-7830, (360) 236-3704, (360) 664-4500, e-mail gts0303@hub.doh.wa.gov.

April 10, 1998  
Bruce Miyahara  
Secretary

**WSR 98-09-114**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**STATE BOARD OF HEALTH**

[Filed April 22, 1998, 11:24 a.m.]

**Subject of Possible Rule Making:** Reporting of cases of communicable diseases, blood lead levels, occupational diseases and conditions, and sentinel birth defects.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 43.20.050, 70.28.010, 70.28.032, 70.24.130, and 70.58.350.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Rule making in this area is designed to coordinate and integrate public health reporting systems. Currently there over seventy different reportable diseases and conditions in Washington. These diseases and conditions are reported to the department through several different tracks, there is not a single, coordinated entry point to public health for health care providers and facilities to report. There are also many diseases that are currently notifiable, that in today's world are not public health surveillance priorities. Additionally there are several diseases that are not currently notifiable that public health has seen the need to collect.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** The Department of Health also has rule-making authority to designate diseases and conditions as notifiable. This project is designed to review all of those regulations simultaneously, and to develop a system that is best suited to the needs of consumers, reporters and the public health system.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Greg Smith, Legislative/Regulatory Affairs Coordinator, Community and Family Health, Washington State Department of Health, P.O. Box 47830, Olympia, WA 98504-7830, (360) 236-3704, (360) 664-4500, e-mail gts0303@hub.doh.wa.gov.

March 31, 1998  
S. I. Beck  
Executive Director

**WSR 98-09-115**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF HEALTH**

(Nursing Care Quality Assurance Commission)

[Filed April 22, 1998, 11:25 a.m.]

**Subject of Possible Rule Making:** WAC 246-840-730 Mandatory reporting.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 18.79.110 Commission—Duties and powers—Rules—Successor to boards.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** During the mandatory rules review process under Executive Order 97-02, the Nursing Commission identified several problem areas with the current language of the "mandatory reporting" rule.

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

**Process for Developing New Rule:** A public meeting was held October 1997, to elicit comments on the rule. Based on these comments the Nursing Commission decided to

move forward with possible amendments. Public rules writing workgroup meetings will be held May 26, 1998, beginning at 12:30 p.m. at Department of Health, 1101 Eastside Street, Olympia, WA and May 27th beginning at 1:00 p.m. at Cavanaugh's Inn at the Park, 303 West North River Drive, Spokane, WA.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Terry J. West, Department of Health, P.O. Box 47864, Olympia, WA 98504, phone (360) 664-4207, FAX (360) 586-2165.

April 9, 1998

Terry J. West

Co-Acting Executive Director

### WSR 98-09-116

#### PREPROPOSAL STATEMENT OF INQUIRY

#### DEPARTMENT OF HEALTH

(Nursing Pool Program)

[Filed April 22, 1998, 11:26 a.m.]

Subject of Possible Rule Making: Amend WAC 246-845-990 Fees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.52C.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The secretary of the Department of Health is mandated to adopt rules regarding fees. In an effort to be more consistent on the late renewal penalty charged by each health care profession, a policy was adopted to standardize this fee. This amendment will reduce the late renewal penalty fee to be consistent with the policy and other health care professions.

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

Process for Developing New Rule: A letter has been sent to each nursing pool owner asking for input on the proposal to reduce the late renewal penalty fee. No negative comments were received.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Terry J. West, Department of Health, P.O. Box 47864, Olympia, WA 98504, phone (360) 664-4207, FAX (360) 586-2165. Submit any comments by April 24, 1998.

April 20, 1998

Bruce Miyahara

Secretary

### WSR 98-09-122

#### PREPROPOSAL STATEMENT OF INQUIRY

#### DEPARTMENT OF FISH AND WILDLIFE

[Filed April 22, 1998, 11:48 a.m.]

Subject of Possible Rule Making: Commercial crab fishing rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 75.08.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Crab pot limits have been established for selected waters. Improvements are needed to ensure that these limits are being adhered to.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bruce Crawford, Fish Management Assistant Director, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2325. Contact by June 30, 1998, expected proposal filing July 1, 1998.

April 22, 1998

Evan Jacoby

Rules Coordinator

### WSR 98-09-123

#### PREPROPOSAL STATEMENT OF INQUIRY

#### DEPARTMENT OF LABOR AND INDUSTRIES

[Filed April 22, 1998, 11:53 a.m.]

Subject of Possible Rule Making: Special assistant attorneys general.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.12.102, 51.24.110.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: (1) Allow the Attorney General's Office to appoint out of state attorneys as special assistant attorneys general for actions brought in other states. (2) Remove an attorney, for cause, from the lists of attorneys eligible for appointment. (3) Rewrite the rule so that it is clearer.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Attorney General Office (AGO), the rule concept has been shared with the AGO, and approved. Washington State Bar Association, the rule concept has been shared with the bar, and approved.

Process for Developing New Rule: This rule affects the privileges of private attorneys appointed as special assistant attorneys general. Under the proposed rule they may be removed, for cause, from the lists of attorneys eligible for appointment. Therefore, the department plans to seek comments on the proposed rule from the primary organization for

plaintiffs' attorneys, the Washington State Trial Lawyers' Association.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties may contact Jim Nylander, phone (360) 902-5118, Department of Labor and Industries, P.O. Box 44288, Olympia, WA 98504-4288.

April 22, 1998

Gary Moore

Director



**WSR 98-08-081**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)  
[Filed April 1, 1998, 9:20 a.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 97-10-034, 97-11-075, and 98-03-079.

Title of Rule: WAC 388-500-0005, 388-503-0310, 388-505-0520, 388-507-0740, 388-510-1005, 388-510-1020, and 388-523-2305.

Purpose: These amendments implement portions of state and federal legislation concerning welfare and immigration reform that impact eligibility for medical programs.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 74.04.057, 74.09.530.

Statute Being Implemented: RCW 74.04.005, 74.08.331, 74.08A.010, [74.08A.]100, [74.08A.]210, [74.08A.]230, 74.09.510, 74.12.255, Public Law 104-193 (1997), Section 401, and the Federal Balanced Budget Act of 1997.

Summary: These amendments implement state and federal legislation concerning welfare and immigration reform as it applies to eligibility for medical programs.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Joanie Scotson, P.O. Box 45530, Olympia, WA, (360) 753-7462.

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

Rule is necessary because of federal law, Public Law 104-193 (1997), Section 401, Federal Balanced Budget Act of 1997.

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

Proposal Changes the Following Existing Rules: Clarifies and updates eligibility requirements to comply with recently enacted state and federal legislation. Amends WAC 388-500-0005, 388-503-0310, 388-505-0520, 388-507-0740, 388-510-1020, and 388-523-2305.

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

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 [apply] to client medical or financial eligibility.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on June 9, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by May 29, 1998, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to: 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 June 9, 1998.

Date of Intended Adoption: No sooner than June 10, 1998.

March 31, 1998  
Edith M. Rice, Chief  
Office of Legal Affairs

AMENDATORY SECTION (Amending Order 3913, filed 10/25/95, effective 10/28/95)

**WAC 388-500-0005 Medical definitions.** Unless defined in this chapter or (~~specifically defined~~) in other chapters of the *Washington Administrative Code*, (~~the department shall~~) use definitions found in the *Webster's New World Dictionary*. This section contains definitions of words and phrases the department uses in rules for medical programs. Definitions of words used for both medical and financial programs are defined under WAC 388-22-030.

~~("Application" for eligibility for medical programs means a written request to the department of social and health services (DSHS) on a department form, from the applicant, an authorized representative, or if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant.~~

~~"Assignment Medicare" means the method by which the provider receives payment for services under Part B of Medicare.)~~

"Assignment of rights" means the client gives the state the right to payment and support for medical care from a third party.

~~("Assistance unit" means a person or members of a family unit who are eligible for medical care.~~

~~"Authorization" means official approval for department action.)~~

"Base period" means the time period used in the limited casualty program which corresponds with the months considered for eligibility.

"Beneficiary" means an eligible person who receives:

- \* A federal cash Title XVI benefit; and/or
- \* State supplement under Title XVI; or
- \* Benefits under Title XVIII of the Social Security Act.

"Benefit period" means the time period used in determining whether Medicare can pay for covered Part A services. A benefit period begins the first day a beneficiary is furnished inpatient hospital or extended care services by a qualified provider. The benefit period ends when the beneficiary has not been an inpatient of a hospital or other facility primarily providing skilled nursing or rehabilitation services for sixty consecutive days. There is no limit to the number of benefit periods a beneficiary may receive. Benefit period also means a "spell of illness" for Medicare payments.

"Cabulance" means a (~~for hire~~) vehicle for hire designed and used to transport a physically restricted person (~~(confined to a wheelchair or persons otherwise physically restricted)~~).

"Carrier" means:

- \* An organization contracting with the federal government to process claims under Part B of Medicare; or
- \* A health insurance plan contracting with the department.

PROPOSED

"Categorical assistance unit (CAU)" means one or more family members whose eligibility for medical care is determined separately or together based on categorical relatedness.

"Categorically needy" means the status of a person who is eligible for medical care under Title XIX of the Social Security Act ((and is:

\* A client receiving or eligible to receive cash assistance under:

\* Aid to families with dependent children (AFDC);

\* Supplemental security income (SSI), including a client grandfathered person and a person with an essential spouse;

\* State supplement;

\* Continuing state-funded cash assistance who is blind or disabled under SSI criteria, as described under WAC 388-511-1105; or

\* Special categories:

\* A financially eligible person under twenty-one years of age who would be eligible for AFDC but does not qualify as a dependent child and who is in:

\* Foster care;

\* Subsidized adoption;

\* A nursing facility or intermediate care facility for mentally retarded; or

\* An approved inpatient psychiatric facility.

\* A person who would be eligible for cash assistance except for the person's institutional status.

\* A person who is SSI categorically related and would not be eligible for cash assistance if the person was not institutionalized and whose gross income does not exceed the three hundred percent SSI benefit cap.

\* A qualified severely impaired disabled person under sixty-five years of age who works.

\* A person during a temporary period who lost AFDC because of increased earnings, increased hours, loss of earned income disregards, or by receiving child or spousal support payments:

\* A pregnant woman:

\* Who meets AFDC financial eligibility standards;

\* Who would qualify for AFDC if the baby was already born;

\* Whose family income does not exceed one hundred eighty-five percent of the federal poverty level; or

\* Who was eligible for and receiving Medicaid while pregnant continues to be eligible through a sixty-day postpartum period that extends through the month that contains the sixtieth day after birth.

\* An infant until the infant's first birthday when the infant lives with the mother and the mother was Medicaid eligible at the time the infant was born;

\* An infant under one year of age whose family income does not exceed one hundred eighty-five percent of the federal poverty level;

\* A child under six years of age or until the child is no longer an inpatient if the inpatient stay began before six years of age and whose family income does not exceed one hundred thirty-three percent of the federal poverty level.

\* A child born after September 30, 1983, who has attained six years of age or until the child is no longer an inpatient if the inpatient stay began before eighteen years of

age, but not attained eighteen years of age whose family income does not exceed one hundred percent of the federal poverty level.

\* A child up to eighteen years of age or until the child is no longer an inpatient if the inpatient stay began before eighteen years of age, born before September 30, 1983, with income allowed by AFDC.

\* A certain widow, widower, and other qualified person who fails to meet SSI standards because of Social Security coverage or increase in Social Security coverage.

\* A Medicare-eligible person whose income does not exceed one hundred percent of the federal poverty level and whose resources do not exceed twice the SSI resource eligibility level.

\* A disabled working person entitled to enroll in Medicare Part A, whose income does not exceed two hundred percent of the federal poverty level and whose resources do not exceed twice the SSI resource eligibility level.

\* An alien as defined under WAC 388-510-1020; or

\* A person whose categorical eligibility is protected by statute). See WAC 388-503-0310.

"Children's health program" means a state-funded medical program for children under age eighteen ((years of age)):

\* Whose family income does not exceed one hundred percent of the federal poverty level; and

\* Who are not otherwise eligible under Title XIX of the Social Security Act.

((**"Client"** means an applicant for or recipient of DSHS medical care programs:))

"Coinsurance-Medicare" means the portion of reimbursable hospital and medical expenses, after subtraction of any deductible, which Medicare does not pay. Under Part A, coinsurance is a per day dollar amount. Under Part B, coinsurance is twenty percent of reasonable charges.

"Community services office (CSO)" means an office of the department which administers social and health services at the community level.

((**"Copayment"** means a fixed dollar amount that is the responsibility of the client:))

"Couple" means, for the purposes of an SSI-related client, an SSI-related client living with a person of the opposite sex and both presenting themselves to the community as husband and wife. The department shall consider the income and resources of such couple as if the couple were married except when determining institutional eligibility.

"Deductible-Medicare" means an initial specified amount that is the responsibility of the client.

\* **"Part A of Medicare-inpatient hospital deductible"** means an initial amount of the medical care cost in each benefit period which Medicare does not pay.

\* **"Part B of Medicare-physician deductible"** means an initial amount of Medicare Part B covered expenses in each calendar year which Medicare does not pay.

"Delayed certification" means ((a)) department approval of a person's eligibility for medicaid made after the established application processing time limits.

"Department" means the state department of social and health services.

**"Early and periodic screening, diagnosis and treatment (EPSDT)"** also known as the "healthy kids" program, means a program providing early and periodic screening, diagnosis and treatment to persons under twenty-one years of age who are eligible for Medicaid or the children's health program.

**"Electronic fund transfers (EFT)"** means automatic bank deposits to a client's or provider's account.

**"Emergency medical condition"** means the sudden onset of a medical condition (including labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- \* Placing the patient's health in serious jeopardy;
- \* Serious impairment to bodily functions; or
- \* Serious dysfunction of any bodily organ or part.

**"Emergency medical expense requirement"** means a specified amount of expenses for ambulance, emergency room or hospital services, including physician services in a hospital, incurred for an emergency medical condition that a client must incur prior to certification for the medically indigent program.

**"Essential spouse"** see "spouse."

**"Extended care patient"** means a recently hospitalized Medicare patient needing relatively short-term skilled nursing and rehabilitative care in a skilled nursing facility.

**"Garnishment"** means withholding an amount from earned or unearned income to satisfy a debt or legal obligation.

**"Grandfathered client"** means:

\* A noninstitutionalized person who meets all current requirements for Medicaid eligibility except the criteria for blindness or disability; and

\* Was eligible for Medicaid in December 1973 as blind or disabled whether or not the person was receiving cash assistance in December 1973; and

\* Continues to meet the criteria for blindness or disability and other conditions of eligibility used under the Medicaid plan in December 1973; and

\* An institutionalized person who was eligible for Medicaid in December 1973 or any part of that month, as an inpatient of a medical institution or resident of an intermediate care facility that was participating in the Medicaid program and for each consecutive month after December 1973 who:

\* Continues to meet the requirements for Medicaid eligibility that were in effect under the state's plan in December 1973 for institutionalized persons; and

\* Remains institutionalized.

~~("Health insuring organization (HIO)" means an entity that arranges and pays for medical services provided to an eligible enrolled client in exchange for a premium or subscription charge paid by the department on a prepaid capitation risk basis.)~~

**"Health maintenance organization (HMO)"** means an entity ~~(that)~~ licensed by the office of the insurance commissioner to provide((s)) comprehensive medical services directly to an eligible enrolled client in exchange for a premium paid by the department on a prepaid capitation risk basis.

**"Healthy kids,"** see "EPSDT."

**"Home health agency"** means an agency or organization certified under Medicare to provide comprehensive health care on a part-time or intermittent basis to a patient in the patient's place of residence.

**"Hospital"** means an institution licensed as a hospital by the ~~((official state licensing authority))~~ department of health.

**"Income for an SSI-related client,"** means ~~((for an SSI-related client,))~~ the receipt by an individual of any property or service which the client can apply either directly, by sale, or conversion to meet the client's basic needs for food, clothing, and shelter.

\* **"Earned income"** means gross wages for services rendered and/or net earnings from self-employment. ~~((Earned income received at predictable intervals other than monthly or in unequal amounts will be converted to a monthly basis. If income is weekly, the amount is multiplied by 4.3 to arrive at a monthly figure.))~~

\* **"Unearned income"** means all other income.

**"Institution"** means an establishment which furnishes food, shelter, medically-related services, and medical care to four or more persons unrelated to the proprietor. This includes medical facilities, nursing facilities, and institutions for the mentally retarded ~~((, but does not include correctional institutions)).~~

\* **"Institution-public"** means an institution, including a correctional institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

\* **"Institution for mental diseases"** means an institution primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases including medical attention, nursing care, and related services.

\* **"Institution for the mentally retarded or a person with related conditions"** means an institution that:

\* Is primarily for the diagnosis, treatment or rehabilitation of the mentally retarded or a person with related conditions; and

\* Provides, in a protected residential setting, on-going care, twenty-four hour supervision, evaluation, and planning to help each person function at the greatest ability.

\* **"Institution for tuberculosis"** means an institution for the diagnosis, treatment, and care of a person with tuberculosis.

\* **"Medical institution"** means an institution:

\* Organized to provide medical care, including nursing and convalescent care;

\* With the necessary professional personnel, equipment and facilities to manage the health needs of the patient on a continuing basis in accordance with acceptable standards;

\* Authorized under state law to provide medical care; and

\* Staffed by professional personnel. Services include adequate physician and nursing care.

**"Intermediary"** means an organization having an agreement with the federal government to process Medicare claims under Part A.

"Legal dependent" means a person for whom another person is required by law to provide support.

"Limited casualty program (LCP)" means a medical care program for medically needy, as defined under WAC 388-503-0320 and for medically indigent, as defined under WAC 388-503-0370.

"Medicaid" means the federal aid Title XIX program under which medical care is provided to persons eligible for:

\* Categorically needy program as defined in WAC 388-503-0310 and ((388-503-1105)) 388-511-1105; or

\* Medically needy program as defined in WAC 388-503-0320.

~~"Medical assistance," ((means the federal aid Title XIX program under which medical care is provided to the categorically needy as defined in WAC 388-503-0310 and 388-503-1105.)) See "Medicaid."~~

"Medical assistance administration (MAA)" means the unit within the department of social and health services authorized to administer the Title XIX Medicaid and the state-funded medical care programs.

"Medical assistance unit (MAU)" means one or more family members whose eligibility for medical care is determined separately or together based on financial responsibility.

"Medical care services" means the limited scope of care financed by state funds and provided to general assistance (GAU) and ADATSA clients.

"Medical consultant" means a physician employed by the department.

"Medical facility" see "Institution."

~~"Medically indigent (MI)" means a state-funded medical program ((part of the limited casualty program)) for a person ((with limited income and resources)) who has an emergency medical condition requiring hospital-based services.~~

"Medically necessary" is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent worsening of conditions in the client that endanger life, or cause suffering or pain, or result in an illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction((-and)). There is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the client requesting the service. For the purpose of this section, "course of treatment" may include mere observation or, where appropriate, no treatment at all.

"Medically needy (MN)" is the status of a person who is eligible for a federally matched medical program under Title XIX of the Social Security Act, who, but for income ((and/or resources)) above the categorically needy level, would be eligible as categorically needy. Effective January 1, 1996, an AFDC-related adult is not eligible for MN.

"Medicare" means the federal government health insurance program for certain aged or disabled clients under Titles II and XVIII of the Social Security Act. Medicare has two parts:

\* "Part A" covers the Medicare inpatient hospital, post-hospital skilled nursing facility care, home health services, and hospice care.

\* "Part B" is the supplementary medical insurance benefit (SMIB) covering the Medicare doctor's services, outpatient hospital care, outpatient physical therapy and speech pathology services, home health care, and other health services and supplies not covered under Part A of Medicare.

"Medicare assignment" means the method by which the provider receives payment for services under Part B of Medicare.

"Month of application" means the calendar month a person files the application for medical care ((unless)), When the application is for the medically needy program, ((then)) at the person's request and if the application is filed in the last ten days of that month, the month of application may be the following month.

"Nursing facility" means any institution or facility the department of health licenses as a nursing facility, or a nursing facility unit of a licensed hospital, that the:

\* Department certifies; and

\* Facility and the department agree the facility may provide skilled nursing facility care.

"Outpatient" means a nonhospitalized patient receiving care in a hospital outpatient or hospital emergency department, or away from a hospital such as in a physician's office, the patient's own home, or a nursing facility.

"Patient transportation" means client transportation to and from covered medical services under the federal Medicaid and state medical care programs.

"Physician" means a doctor of medicine, osteopathy, or podiatry who is legally authorized to perform the functions of the profession by the state in which the services are performed.

~~"Professional activity study (PAS)" means a compilation of inpatient hospital data ((by diagnosis and age)), conducted by the commission of professional and hospital activities, to determine the average length of hospital stay for patients. ((These data were published in a book entitled, Length of Stay in PAS Hospitals, Western. The department has adopted this book as the basis for authorizing payment for the maximum number of inpatient hospital days for clients of state funded programs, or where no memorandum of understanding with a professional review organization (PRO) exists.))~~

"Professional review organization for Washington (PRO-W)" means the state level organization responsible for determining whether health care activities:

\* Are medically necessary;

\* Meet professionally acceptable standards of health care; and

\* Are appropriately provided in an outpatient or institutional setting for beneficiaries of Medicare and clients of Medicaid and maternal and child health.

"Prosthetic devices" means replacement, corrective, or supportive devices prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice as defined by state law to:

\* Artificially replace a missing portion of the body;

\* Prevent or correct physical deformity or malfunction;

or

\* Support a weak or deformed portion of the body.



**"Provider" or "provider of service"** means an institution, agency, or person:

\* ~~((Having))~~ Who has a signed agreement with the department to furnish medical care ~~((and))~~, goods, and/or services to clients; and

\* Is eligible to receive payment from the department.

**"Resources for an SSI-related client,"** ~~((mean, for an SSI-related client,))~~ means cash or other liquid assets or any real or personal property that an individual or spouse, if any, owns and could convert to cash to be used for support or maintenance.

\* If an individual can reduce a liquid asset to cash, it is a resource.

\* If an individual cannot reduce an asset to cash, it is not considered an available resource.

\* Liquid ~~((-))~~ means properties that are in cash or are financial instruments which are convertible to cash such as, but not limited to, cash ~~((in hand, stocks))~~, savings, checking accounts, stocks, mutual fund shares, mortgage, or a promissory note~~((s))~~.

\* Nonliquid ~~((-))~~ means all other property both real and personal ~~((shall be))~~ evaluated ~~((according to))~~ at the price the item can reasonably be expected to sell for on the open market ~~((in the particular geographical area involved))~~.

**"((Retroactivity)) Retroactive period"** means the ~~((period of no more than))~~ three calendar months before the month of application ~~((month of an otherwise eligible person under the Federal aid Title XIX program))~~.

**"Spell of illness"** see **"benefit period."**

**"Spendedown"** means the process by which a person uses incurred medical expenses to offset income and/or resources to meet the financial standards established by the department.

**"Spouse"** means:

\* **"Community spouse"** means a person living in the community and married to an institutionalized person or to a person receiving services from a home and community-based waived program as described under chapter 388-515 WAC.

\* **"Eligible spouse"** means an aged, blind or disabled husband or wife of an SSI-eligible person, with whom such ~~((spouse))~~ a person lives.

\* **"Essential spouse"** means, ~~((for the purposes of SSI,))~~ a ~~((spouse))~~ husband or wife whose needs were taken into account in determining ~~((the need of an))~~ old age assistance (OAA), aid to the blind (AB), or disability assistance (DA) client for December 1973, who continues to live in the home and to be the spouse of such client.

\* **"Ineligible spouse"** means the husband or wife of an SSI-eligible person, who lives with the SSI-eligible person and who has not applied or is not eligible to receive SSI.

\* **"Institutionalized spouse"** means a married person in an institution or receiving services from a home or community-based waived program.

\* **"Nonapplying spouse"** means ~~((the))~~ an SSI-eligible person's husband or wife, who has not applied for assistance ~~((- of an SSI-eligible person))~~.

**"SSI-related"** means an aged, blind or disabled person not receiving an SSI cash grant.

~~(("State office or SO" means the medical assistance administration of the department of social and health services.))~~

**"Supplemental security income (SSI) program, Title XVI"** means the federal grant program for aged, blind, and disabled established by section 301 of the Social Security amendments of 1972, and subsequent amendments, and administered by the Social Security Administration (SSA).

**"Supplementary payment (SSP)"** means the state money payment to persons receiving benefits under Title XVI, or who would, but for the person's income, be eligible for such benefits, as assistance based on need in supplementation of SSI benefits. This payment includes:

\* **"Mandatory state supplement"** means the state money payment to a person who, for December 1973, was a client receiving cash assistance under the department's former programs of old age assistance, aid to the blind and disability assistance; and

\* **"Optional state supplement"** means the elective state money payment to a person eligible for SSI benefits or who, except for the level of the person's income, would be eligible for SSI benefits.

**"Third party"** means any entity that is or may be liable to pay all or part of the medical cost of care of a ~~((federal Medicaid or state))~~ medical ~~((care))~~ program client.

**"Title XIX"** is the portion of the federal Social Security Act that authorizes grants to states for medical assistance programs. Title XIX is also called Medicaid.

**"Transfer"** means any act or omission to act when title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person; including delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing an interest in property. Transfer of title to a resource occurs by:

\* An intentional act or transfer; or

\* Failure to act to preserve title to the resource.

**"Value-fair market for an SSI-related person"** means ~~((- for SSI-related medical eligibility,))~~ the current value of a resource at the ~~((going))~~ price for which the resource can reasonably be expected to sell on the open market ~~((in the particular geographic area involved))~~.

**"Value of compensation received"** means, for SSI-related medical eligibility, the gross amount paid or agreed to be paid by the purchaser of a resource.

**"Value-uncompensated"** means, for SSI-related medical eligibility, the fair market value of a resource, minus the amount of compensation received in exchange for the resource.

**AMENDATORY SECTION** (Amending WSR 97-03-036, filed 1/9/97, effective 2/9/97)

**WAC 388-503-0310 Categorically needy eligible persons.** ~~((The department shall determine))~~ A person eligible for categorically needy medical assistance ~~((a client who))~~ is:

(1) Not eligible for or receiving temporary assistance for needy families (TANF) cash benefits but who meets the eligibility criteria for aid to families with dependent children

(AFDC) that were in effect on July 16, 1996 except the person's:

(a) Earned income is treated as described under WAC 388-507-0740; and

(b) Resources are treated as described under WAC 388-505-0580.

This group shall include, but is not limited to, the special situations described under WAC 388-507-0740.

(2) Receiving or eligible to receive a cash assistance payment under:

(a) ~~((Aid to families with dependent children-))~~ TANE. For the purpose of determining eligibility for a medical program, any reference to AFDC((?)) includes TANE; or

(b) Supplemental security income (SSI) including a grandfathered person and a person with an essential spouse; or

(c) State supplemental payment (SSP) to a person as assistance based on need in supplementation of SSI benefits. This payment includes mandatory state supplement or optional state supplement as defined under WAC 388-500-0005. The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse is not eligible for noninstitutional categorically needy medical assistance.

~~((2))~~ (3) A person twenty years of age or younger who ~~((meets the))~~:

(a) Meets the one-person ~~((AFDC))~~ TANE financial requirements and is in:

(i) ~~((Foster care; or~~  
~~((ii) Subsidized adoption; or~~  
~~((iii))~~ A nursing facility or intermediate care facility for mentally retarded (ICF/MR); or

~~((iv))~~ (ii) An approved inpatient psychiatric facility.

(b) ~~((Eligibility requirements under chapter 388-509 WAC))~~ Is in foster care; or

(c) Receives subsidized adoption.

~~((3))~~ (4) A current client of Title II, Social Security Administration (SSA) benefits who:

(a) Was a concurrent client of Title II and SSI benefits;

(b) Is ineligible for SSI benefits and/or state supplementary payments; and

(c) Would be eligible for SSI benefits if the department deducts the following from the current Title II benefit amount:

(i) All Title II cost-of-living benefit increases under P.L. 94-566, Section 503 received by the client since termination from SSI/SSP; and

(ii) All Title II cost-of-living benefit increases received during the time period in subsection ~~((3))~~ (4)(c)(i) of this section by the client's spouse and/or other financially responsible family member living in the same household.

~~((4))~~ (5) An SSI client, after January 1, 1981, who continues to be eligible for medical assistance under P.L. 96-265 and 99-643;

~~((5))~~ (6) A currently disabled client receiving widow's or widower's benefits under Section 202 (e) or (f) of the Social Security Act if the disabled client:

(a) Was entitled to a monthly insurance benefit under Title II of the Social Security Act for December 1983; ~~((and))~~

(b) Was entitled to and received a widow's or widower's benefit based on a disability under Section 202 (e) or (f) of the Social Security Act for January 1984;

(c) Became ineligible for SSI/SSP in the first month in which the increase provided under Section 134 of P.L. 98-21 was paid to the client;

(d) Has been continuously entitled to a widow's or widower's benefit under Section 202 (e) or (f) of the act;

(e) Would be eligible for SSI/SSP benefits if the amount of that increase, and any subsequent cost-of-living increases provided under Section 215(i) of the act, were disregarded;

(f) Is fifty through fifty-nine years of age; and

(g) Filed an application for Medicaid coverage before July 1, 1988.

~~((6) Effective January 1, 1991,))~~  
(7) Any person receiving Title II disabled widow/widower benefits (DWB) under Section 202 (e) or (f) of the SSA, if the person:

(a) Is not eligible for the hospital insurance benefits under Medicare Part A of Title XVIII;

(b) Received SSI/SSP payments in the month before receiving such Title II benefits;

(c) Became ineligible for SSI/SSP due to receipt of or increase in such Title II benefits; and

(d) Would be eligible for SSI/SSP if the amount of such Title II benefits or increase in such Title II benefits under Section 202 (e) or (f) of the SSA, and any subsequent cost-of-living increases provided under Section 215(i) of the act were disregarded.

~~((7))~~ (8) A disabled or blind client receiving Title II Disabled Adult Childhood (DAC) benefits under Section 202(d) of the SSA if the client:

(a) Has attained eighteen years of age;

(b) Lost SSI/SSP on or after July 1, 1988, due to receipt of or increase in DAC benefits; and

(c) Would be eligible for SSI/SSP if the amount of the DAC benefits or increase under Section 202(d) of the SSA and any subsequent cost-of-living increases provided under Section 215(i) of the SSA Act were disregarded.

~~((8))~~ (9) A client who:

(a) In August 1972, received:

(i) Old age assistance (OAA);

(ii) Aid to blind (AB);

(iii) Aid to families with dependent children (AFDC); or

(iv) Aid to the permanently and totally disabled (APTD);

~~((and))~~

(b) Was entitled to or received retirement, survivors, and disability insurance (RSDI) benefits; or

(c) Is ineligible for OAA, AB, AFDC, SSI or APTD solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.

~~((9))~~ (10) A pregnant woman whose family income is at or below one hundred eighty-five percent of the Federal Poverty Level (FPL), or postpartum woman as described under WAC 388-508-0830;

~~((10))~~ (11) A child, born to a woman eligible for and receiving medical assistance on the date of the child's birth, from the date of birth for a period of one year when the child remains a member of the mother's household;

~~((11))~~ (12) A child ~~((eighteen years of))~~ under age ~~((or younger))~~ nineteen meeting residence, citizenship, and Social Security number requirements whose countable family income is at or under two hundred percent of the FPL.

~~((12) In)~~ (13) A family ~~((unit))~~ who is ineligible for ~~((AFDC financial))~~ medical assistance ~~((as a result (wholly or in part))~~ because of the collection or increased collection of child or spousal support ~~((shall be))~~. The family is eligible for medical assistance for four months beginning with the month of ineligibility~~((;))~~ if the family ~~((unit))~~ received ~~((AFDC financial))~~ medical assistance in at least three of the six months immediately preceding the month of ineligibility;

~~((13) In a family unit which becomes ineligible for AFDC before April 1, 1990, solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance for four calendar months beginning with the month of ineligibility, provided:~~

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility; and  
(b) A member of such family continues to be employed; and

(c) ~~The department considers earned income tax credits (EITC) as income for the purposes of this subsection.)~~

(14) Denied ~~((AFDC))~~ TANF cash payments solely because of a departmental recovery of an overpayment;

(15) In a medical facility and:

(a) Who would be eligible for cash assistance if the person was not institutionalized; or

(b) Is an SSI-related institutionalized person and has gross income above the cash assistance level but below three hundred percent of the Federal Benefit Rate as defined under WAC 388-250-1700.

(16) Sixty-five years of age or older, a patient in an institution for mental diseases (IMD), and is resource and income eligible as described under subsection (15)(a) or (b) of this section;

(17) ~~((A person))~~ Eligible for and accepting hospice services as described under WAC 388-86-047 and who ~~((shall be))~~ is:

(a) SSI categorically related with gross income less than three hundred percent of the SSI Federal Benefit Rate; or

(b) AFDC or TANF categorically related.

(18) Blind or presumptively disabled under SSI criteria, as described under WAC 388-511-1105, and the person receives continuing general assistance (GA-X) cash assistance;

(19) An alien ineligible for ~~((AFDC))~~ TANF or SSI cash assistance because of deeming of income of the alien's sponsors as described under WAC 388-218-1695;

(20) ~~((Not an inmate of a public institution;~~

~~(21) Not receiving cash assistance because of special situations as defined under WAC 388-507-0740; or~~

~~(22))~~ A client who:

(a) Was entitled to RSDI benefits in August 1972; and

(b) Is ineligible for ~~((AFDC))~~ TANF or SSI solely because of the twenty percent increase in Social Security benefits under PL 92-336.

(21) A child receiving SSI payments on August 22, 1996, and who, but for the passage of the new disability definition would continue to be paid SSI benefits;

(22) Not an inmate of a public institution.

AMENDATORY SECTION (Amending Order 3983, filed 6/6/96, effective 7/7/96)

WAC 388-505-0520 Citizenship ~~((and alien status))~~. ~~((1) The department shall provide Medicaid to)~~ An otherwise eligible person ~~((who is))~~ may receive Medicaid when the person is:

~~((a))~~ (1) A citizen or national of the United States; ~~((or~~ ~~(b))~~ (2) A North American Indian born in Canada claiming ~~((fifty percent))~~:

~~((i))~~ (a) Fifty percent Indian blood; or

~~((ii) Or)~~ (b) Less than fifty percent Indian blood ~~((and who))~~ when the person has maintained United States residency since ~~((before))~~ December 25, 1952~~((;~~

(c) ~~An alien lawfully admitted for permanent residence or otherwise permanently residing under color of law (PRUCOL) in the United States; or~~

(d) ~~An alien lawfully present in the United States according to sections 203 (a)(7), 207(c), 208, and 212 (d)(5) of the Immigration and Nationality Act (INA); or~~

(e) ~~An alien granted lawful temporary residence, or permanent residence according to sections 245(a), 210, 210(f), and 210A of INA and sections 202 and 302 of the Immigration Reform and Control Act (IRCA), unless five years from the date Immigration and Naturalization Service (INS) grants lawful temporary resident status has not passed; or~~

(f) ~~An alien approved by the INS under the family unity program, unless five years from the date INS grants lawful temporary resident status for the petitioning relative has not passed.~~

(2) ~~When an alien as described under subsection (1)(e) or (f) of this section has not passed the five-year disqualification period, the department shall provide Medicaid to an otherwise eligible person when the alien is:~~

(a) Aged, blind, or disabled; or

(b) ~~Seventeen years of age or under; or~~

(c) ~~Pregnant; or~~

(d) ~~A Cuban/Haitian entrant as defined in sections 501 (e)(1) and (2)(A) of P.L. 96-422.~~

(3) ~~When an alien as described under subsection (1)(e) or (f) of this section is still under the five-year disqualification period, and is not described under subsection (2) of this section, the department shall provide medical care and services as necessary for treatment of the alien's emergency medical condition as defined under WAC 388-500-0005.~~

(4) ~~For any other alien, when such alien meets the eligibility requirements of a Medicaid program other than citizenship or alien status requirements, the department shall provide Medicaid as follows:~~

(a) ~~Full scope medical services for a pregnant woman; or~~

(b) ~~Medical care and services as necessary for treatment of the alien's emergency medical condition as defined under WAC 388-500-0005.~~

(5) ~~Medical care services and children's health programs do not require citizenship/alien status); or~~

(3) A noncitizen who is otherwise eligible and who meets provisions described in chapter 388-510 WAC.

PROPOSED

AMENDATORY SECTION (Amending Order 3954, filed 3/13/96, effective 4/13/96)

**WAC 388-507-0740 Special situations.** (1) ~~((The department)) A client shall ((not allow the AFDC thirty dollars plus one-third earned income exemption for clients applying solely for medical assistance, unless the conditions under subsection (2) of this section apply)) receive a fifty percent family earned-income exemption and the actual dependent care amount deduction described in WAC 388-505-0590 when the client:~~

(a) Applies for or receives temporary assistance for needy families (TANF) cash benefits;

(b) Applies for or receives TANF-related medical only benefits; or

(c) Is not eligible for or receiving TANF benefits but who meets the eligibility criteria for AFDC that were in effect on July 16, 1996.

This subsection does not apply to a client described in subsection (2) of this section.

~~((The department)) A client shall ((allow the exemption in subsection (1) of this section when the family has:~~

~~(a) Received AFDC cash assistance in one of the four preceding months; and~~

~~(b) Not already received the exemption for a maximum of four consecutive months; or~~

~~(c) Already received the exemption for the maximum period, but has subsequently not received AFDC cash assistance for at least twelve consecutive months)) receive a ninety dollar earned-income exemption, and the actual dependent care amount deduction, when a client applies for or receives noncash medical only benefits described under chapter 388-508 WAC, Pregnant women medical eligibility and chapter 388-509 WAC, Children's medical eligibility.~~

~~((The department shall consider an AFDC client terminated from cash assistance as)) A person is eligible for Medicaid ~~((when termination was solely due to an AFDC client:~~~~

~~(a) Ceasing to attend school; or~~

~~(b) Refusing)) if the person:~~

(a) Would be eligible for, but chooses not to receive, TANF; or

(b) Is not eligible for or receiving TANF solely because the person:

(i) Has received sixty months of financial assistance or is a member of an assistance unit which has received sixty months of financial assistance;

(ii) Is not attending school;

(iii) Refuses to participate in ~~((the job opportunities and basic skills (JOBS) training program)) TANF work activities;~~

(iv) Is an unmarried minor parent and is not in a department-approved living situation as described under WAC 388-215-1660;

(v) Is a parent or caretaker relative who fails to notify the department within five days of the date the child leaves the home and the child's absence will exceed ninety days as described under WAC 388-215-1115;

(vi) Is a fleeing felon or fleeing to avoid prosecution for a felony charge, or a probation and parole violator;

(vii) Is convicted of a drug-related felony as described under WAC 388-215-1570;

(viii) Is convicted of receiving benefits unlawfully as described under WAC 388-46-110;

(ix) Is convicted of misrepresenting residence to obtain assistance in two or more states as described under WAC 388-46-120; or

(x) Has gross earnings exceeding the TANF gross income standard.

~~((The department shall not consider)) Diversion cash assistance, issued under chapter 388-222 WAC, is exempt income when determining eligibility for a medical program.~~

(5) The following requirements do not apply to a TANF-related family applying for or receiving medical assistance:

(a) Work quarters as described under WAC 388-215-1385; or

(b) Unemployment as described under WAC 388-215-1375.

(6) The transfer of a resource ~~((when determining)) does not affect the medical program eligibility for a person who is not institutionalized. For an institutionalized client, refer to WAC 388-513-1365.~~

## NEW SECTION

**WAC 388-510-1005 Definitions—Aliens.** "Legal immigrant" means an alien residing in the United States who is lawfully present with intent to remain. A legal immigrant includes, but is not limited to, an alien meeting PRUCOL criteria.

"Nonimmigrant" means an alien legally residing in the country but without an intent to remain permanently or who is not lawfully present.

"PRUCOL" means a person permanently residing under color of law.

"Qualified alien" means an alien:

(1) Who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 U.S.C. 12, Sec. 101 (a)(20));

(2) Who is a refugee admitted to the United States under section 207 of such Act;

(3) Who is granted asylum under section 208 of Act;

(4) Whose deportation is being withheld under section 243(h) of such Act;

(5) Who is paroled into the United States under section 212 (d)(5) of such Act for a period of at least one year;

(6) Who is granted conditional entry under section 203(a)(7) of such Act as in effect prior to April 1, 1980;

(7) Who is a victim of domestic violence or an immigrant child that has been battered or subjected to extreme cruelty when:

(a) The immigrant petitions for legal status under section 204(a) of the INA or a petition for suspension of deportation under section 244(a) of the INA; and

(b) The person responsible for the battery no longer resides with the immigrant.

(8) Who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980; or

(9) Who is an Amerasian immigrant as defined in the Balanced Budget Agreement of 1997.

**AMENDATORY SECTION** (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-510-1020 Alien—Eligibility.** ~~((The department shall provide Medicaid to an otherwise eligible person who meets the criteria as described under WAC 388-505-0520.))~~ (1) For the purpose of determining eligibility for a medical program, the terms "qualified alien" or "nonqualified alien" indicates the immigration status of the alien, not the eligibility status for a particular medical program.

(2) An alien receiving temporary assistance for needy families (TANF) or Supplemental Security Income (SSI) is eligible for Medicaid.

(3) A qualified alien as described in WAC 388-510-0005 is eligible for categorically needy (CN) Medicaid who:

(a) Arrived in the United States on or before August 21, 1996; and

(b) Is otherwise eligible for a Medicaid program.

(4) A legal immigrant is eligible for state-funded CN scope of care who:

(a) Arrived in the United States on or before August 21, 1996;

(b) Would be eligible for a Medicaid program but for immigration status; and

(c) Does not meet the definition of qualified alien in WAC 388-510-1005.

(5) An alien is eligible for CN Medicaid who:

(a) Arrived in the United States on or after August 22, 1996;

(b) Is otherwise eligible for to a Medicaid program; and

(c) Is a refugee, an asylee, an alien who has had deportation withheld, a Cuban/Haitian or an Amerasian as described in WAC 388-510-1005;

(d) Is an alien who is active duty with the United States military;

(e) Is an honorably discharged veteran of the United States Armed Forces, including the following who fought on behalf of the United States:

(i) Filipino soldiers in World War II;

(ii) Hmong and Lao soldiers during the Vietnam conflict;

(iii) The spouse or unmarried dependent child of a veteran described in subsection (5)(d) or (e) of this section.

(f) Is a qualified alien who has resided in the United States for five years.

(6) A family with child(ren) is eligible for state-funded CN scope of care who:

(a) Arrived in the United States on or after August 22, 1996;

(b) Has resided in Washington for twelve-consecutive months as described under WAC 388-215-1210; and

(c) Is determined eligible for or receiving state family assistance (SFA).

(7) A legal immigrant who does not meet the alien criteria described under subsection (5)(c), (d), (e) or (f) of this section is eligible for state-funded medical care services, as described under WAC 388-529-2930, who:

(a) Arrived in the United States on or after August 22, 1996; and

(b) Is determined eligible for and is receiving financial assistance under the general assistance - unemployable (GA-U) program.

(8) A noncitizen pregnant woman is eligible for state-funded CN scope of care:

(a) Who is not eligible for coverage under a CN Medicaid program;

(b) Regardless of date of arrival into the United States; and

(c) Who would be eligible under chapter 388-508 WAC.

(9) A noncitizen child is eligible for state-funded CN scope of care under the children's health program:

(a) Who is not eligible for coverage under a CN Medicaid program;

(b) Regardless of date of arrival into the United States; and

(c) Who would be eligible under WAC 388-509-0920.

(10) Regardless of the date of arrival into the United States, a noncitizen who meets Medicaid eligibility requirements, other than citizenship, is eligible for emergency medical care and services:

(a) Only for the necessary treatment of an emergency medical condition as defined under WAC 388-500-0005; and

(b) With the exception of routine prenatal or postpartum care or organ transplants as defined in WAC 388-87-115(2).

(11) Refer to chapter 388-518 WAC, Limited casualty program—Medically indigent for a noncitizen who:

(a) Does not meet Medicaid program requirements;

(b) Has an emergency medical condition; or

(c) Requires an organ transplant.

**AMENDATORY SECTION** (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-523-2305 Medical extensions.** (1) Refer to:

(a) WAC 388-508-0830 for extensions for a pregnant woman; and

(b) WAC 388-508-0835 for the family planning extension.

(2) A family ~~((unit))~~ ineligible for ~~((AFDC-cash))~~ medical assistance because of the collection or increased collection of child or spousal support ~~((shall be)),~~ is eligible for medical assistance for four months beginning with the month of ineligibility, provided the family ~~((unit))~~:

(a) Is eligible for and received ~~((AFDC-cash))~~ medical assistance in three or more of the six months immediately preceding the month of ineligibility; and

(b) Continues to meet all AFDC or temporary assistance for needy families (TANF) eligibility criteria except income.

(3) ~~((The department shall find eligible for medical assistance, an AFDC))~~ A family ~~((unit which becomes)),~~ ineligible for or requesting termination from medical or cash assistance because of~~((:~~

~~((a)))~~ income from, or hours of, employment of the caretaker relative~~((; or~~

~~((b))~~ The loss of the thirty dollars plus one-third earned income deduction; or

(e) ~~The loss of the thirty-dollar earned income deduction. Such AFDC family unit as described under (a), (b), or (c) of this subsection~~) shall remain eligible for medical assistance for six calendar months when the family (~~unit~~):

~~((i))~~ (a) Received (~~AFDC~~) medical assistance in three or more of the six months immediately preceding the month of ineligibility; and

~~((ii))~~ (b) Includes a child.

(4) The (~~AFDC~~) family (~~unit~~), under subsection (3) of this section, shall be:

(a) Eligible for six additional calendar months of medical assistance provided the family (~~unit~~):

(i) Continues to include a child; and

(ii) Received medical assistance for the entire six-month extension under subsection (3) of this section; and

(iii) Reports any family earnings and child care costs related to the employment of the caretaker relative for the preceding three-month period. The client shall report by the twenty-first day of the fourth month of the initial extension, unless good cause is established.

(b) Terminated from the six additional calendar months of medical assistance when the:

(i) Family's average gross monthly earned income, less the cost of child care related to employment of the caretaker relative, exceeds one hundred eighty-five percent of the Federal Poverty Level when averaged over the immediately preceding three-month period; or

(ii) Caretaker relative has no earnings in one or more of the three previous months, unless lack of earnings is due to good cause.

(5) An AFDC or TANF family member shall not be eligible for the extensions in subsections (3) and (4) of this section when the department finds the person ineligible for AFDC or TANF in any of the last six months before the extension because of fraud.

### WSR 98-09-017

#### PROPOSED RULES

#### PUBLIC DISCLOSURE COMMISSION

[Filed April 7, 1998, 2:16 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-06-055.

Title of Rule: WAC 390-17-405 Volunteer services.

Purpose: Clarify what types of services are "of the sort commonly performed by volunteer campaign workers" and clarify under what conditions an accountant or attorney may donate services without a contribution ensuing.

Statutory Authority for Adoption: RCW 42.17.370(1).

Statute Being Implemented: RCW 42.17.020 (14)(b)(vi) and (viii).

Summary: The rule specifies what services an uncompensated individual may perform for a candidate or political committee without making a contribution to the candidate or committee. The rule also clarifies under what circumstances an accountant or attorney may donate his or her services to a

candidate, political party or caucus political committee without making a contribution to the recipient.

Reasons Supporting Proposal: The rule provides guidance to candidates and political committees in order that they may comply with the law's requirement to report all contributions fully and accurately.

Name of Agency Personnel Responsible for Drafting and Implementation: Vicki Rippie, Public Disclosure Commission, 711 Capitol Way, Room 403, Olympia, (360) 586-4838; and Enforcement: Susan Harris, Public Disclosure Commission, 711 Capitol Way, Room 403, Olympia, (360) 753-1981.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The law allows individuals who are not being compensated by anyone to volunteer their services to a candidate or political committee so long as the services donated are "of the sort commonly performed by volunteer campaign workers." The law also allows candidates, political parties and caucus committees to receive, under certain conditions, the services of an attorney or accountant without realizing a contribution. The rule implements these statutory provisions and provides needed guidance to campaigns.

Proposal Changes the Following Existing Rules: Removes reference to a section of law that was repealed in 1995 and implements statutory language in RCW 42.17.020 (14)(b)(vi) and (viii).

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule has no economic impact on small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Public Disclosure Commission is not an agency listed in subsection (5)(a)(i) of section 201. Further, the Public Disclosure Commission does not voluntarily make section 201 applicable to this rule adoption pursuant to subsection (5)(a)(ii) of section 201, and to date the Joint Administrative Rules Review Committee has not made section 201 applicable to this rule adoption.

Hearing Location: Second Floor Conference Room, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA, on May 26, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Leigh Hirschi-Mehan, by May 25, 1998.

Submit Written Comments to: Vicki Rippie, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, FAX (360) 753-1112 by May 15, 1998.

Date of Intended Adoption: May 26, 1998.

April 7, 1998

Melissa Warheit  
Executive Director

AMENDATORY SECTION (Amending WSR 94-11-017, filed 5/5/94)

WAC 390-17-405 Volunteer services. (1) In accordance with RCW (~~42-17-630 (5)(b)(viii))~~ 42.17.020

(14)(b)(vi), an individual may perform services or labor for a ~~((campaign,))~~ candidate or political committee without incurring a contribution ~~((subject to the limits under RCW 42.17.640 or RCW 42.17.105(8)))~~, so long as the individual is not compensated by any person for the services or labor rendered ~~((, the services or labor are performed outside the hours for which the employer has scheduled the employee to work))~~ and the services are of the ~~((sort))~~ kind commonly performed by ~~((the))~~ volunteer campaign workers ~~((, including:))~~. These commonly performed services include:

- (a) office staffing;
- (b) doorbelling or leaflet drops;
- (c) mail handling (folding, stuffing, sorting and postal preparation);
- (d) political or fund raising event staffing;
- (e) telephone bank activity (conducting voter identification, surveys or polling, and get-out-the-vote campaigns);
- (f) construction and placement of yard signs, hand-held signs or in-door signs;
- (g) chauffeuring for candidate or candidate or committee staff;
- (h) scheduling of campaign appointments and events;
- (i) transporting voters to polling places on election day;
- (j) except as provided in subsection (2), ((the services of any individual, except an attorney or accountant, provided that the services donated are solely for the purpose of ensuring)) preparing campaign disclosure reports required by RCW 42.17 and otherwise helping to ensure compliance with state election or public disclosure laws;
- (k) campaign consulting and management services, polling and survey design, public relations and advertising, or fundraising performed by any individual, so long as the individual ~~((is not a professional in that field who))~~ does not ordinarily charge ~~((s))~~ a fee or receive ~~((s))~~ compensation for providing ~~((those))~~ the service ~~((s))~~; and
- (l) all similar activities as determined by the commission.

(2) An attorney or accountant may donate his or her professional services to a candidate, a candidate's authorized committee, a political party or a caucus political committee, without making a contribution in accordance with RCW ~~((42.17.630(5)(b)(ix)))~~ 42.17.020 (14)(b)(viii), if the attorney or accountant is:

- (a) employed and his or her employer is paying for the services rendered;
- (b) self-employed; or
- (c) performing services for which no compensation is paid by any person.

However, neither RCW 42.17.020 (14)(b)(viii) nor this section authorizes the services of an attorney or an accountant to be provided to a political committee without a contribution ensuing, unless the political committee is a candidate's authorized committee, political party or caucus political committee and the conditions of RCW 42.17.020 (14)(b)(viii) and (a), (b) or (c) of this subsection are satisfied, or unless the political committee pays the fair market value of the services rendered.

**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 98-09-018

## PROPOSED RULES

## PUBLIC DISCLOSURE COMMISSION

[Filed April 7, 1998, 2:20 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-06-054.

Title of Rule: WAC 390-17-205 Number of registered voters—Calculation.

Purpose: To repeal the rule.

Statutory Authority for Adoption: RCW 42.17.370(1).

Statute Being Implemented: RCW 42.17.640.

Summary: Between August 1993, and July 1, 1995, this rule provided a basis for calculating the maximum amount a political party or caucus political committee was entitled to contribute to a candidate for state office.

Reasons Supporting Proposal: Effective July 1, 1995, the legislature added a provision to the statute (RCW 42.17.640(5)) setting out how the contribution limits to which political party and caucus political committee are subject [to] are to be calculated. This statutory language is different than and supersedes the rule. (Note: All political party and caucus political committees were notified of this change in a memo dated July 28, 1995.)

Name of Agency Personnel Responsible for Drafting and Implementation: Vicki Rippie, Public Disclosure Commission, 711 Capitol Way, Room 403, Olympia, (360) 586-4838; and Enforcement: Susan Harris, Public Disclosure Commission, 711 Capitol Way, Room 403, Olympia, (360) 753-1981.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Repeal of this rule is warranted because it has been superseded by statute.

Proposal Changes the Following Existing Rules: The existing rule is proposed for repeal.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed action has no effect on small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Public Disclosure Commission is not an agency listed in subsection (5)(a)(i) of section 201. Further, the Public Disclosure Commission does not voluntarily make section 201 applicable to this rule adoption pursuant to subsection (5)(a)(ii) of section 201, and to date the Joint Administrative Rules Review Committee has not made section 201 applicable to this rule adoption.

Hearing Location: Second Floor Conference Room, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA, on May 26, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Leigh Hirschi-Mehan, by May 25, 1998.

Submit Written Comments to: Vicki Rippie, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, FAX (360) 753-1112 by May 15, 1998.

PROPOSED

Date of Intended Adoption: May 26, 1998.

April 7, 1998  
Melissa Warheit  
Executive Director

## REPEALER

The following chapter [section] of the Washington Administrative Code is repealed:

WAC 390-17-205                      Number of registered voters—Calculation.

### WSR 98-09-019

#### PROPOSED RULES

#### PUBLIC DISCLOSURE COMMISSION

[Filed April 7, 1998, 2:22 p.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 98-06-053.

Title of Rule: WAC 390-16-207 In-kind contributions—Explanation and reporting.

Purpose: Allow candidates and political committees to receive incidental in-kind contributions without reporting the activity or having the contributions count against any applicable contribution limit.

Statutory Authority for Adoption: RCW 42.17.370(1).

Statute Being Implemented: RCW 42.17.020(14), [42.17].080, [42.17].090, [42.17].640.

Summary: The proposed amendment explains what is meant by the term in-kind contribution and specifies when and how to report such contributions.

Reasons Supporting Proposal: The proposed amendment is easier to understand than the current rule and is necessary in order to relieve candidates and political committees from the obligation to report receipt of items having little monetary value.

Name of Agency Personnel Responsible for Drafting and Implementation: Vicki Rippie, Public Disclosure Commission, 711 Capitol Way, Room 403, Olympia, (360) 586-4838; and Enforcement: Susan Harris, Public Disclosure Commission, 711 Capitol Way, Room 403, Olympia, (360) 753-1981.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule does not change the effect of the current rule. It would still allow state office candidates, political parties and caucus political committees to receive in-kind contributions of \$25 or less in the aggregate from one source without reporting receipt of the contributions. Judicial and local office candidates could receive in-kind donations of up to \$50 during a reporting period without reporting the transaction. The rule is being amended for clarity.

Proposal Changes the Following Existing Rules: The language is being amended to make the rule more understandable to candidates and treasurers.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule only affects those donors that make incidental in-kind contributions to candidates or political committees.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Public Disclosure Commission is not an agency listed in subsection (5)(a)(i) of section 201. Further, the Public Disclosure Commission does not voluntarily make section 201 applicable to this rule adoption pursuant to subsection (5)(a)(ii) of section 201, and to date the Joint Administrative Rules Review Committee has not made section 201 applicable to this rule adoption.

Hearing Location: Second Floor Conference Room, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA, on May 26, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Leigh Hirschi-Mehan, by May 25, 1998.

Submit Written Comments to: Vicki Rippie, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, FAX (360) 753-1112, by May 15, 1998.

Date of Intended Adoption: May 26, 1998.

April 7, 1998  
Melissa Warheit  
Executive Director

#### AMENDATORY SECTION (Amending WSR 94-11-016, filed 5/5/94)

**WAC 390-16-207 In-kind contributions (~~and expenditures~~)—Explanation and reporting.** (1) ~~Whenever a candidate or a political committee makes one or more in-kind expenditures which (i) directly or indirectly, whole or in part, benefit another identifiable candidate or political committee and (ii) in the aggregate amount to a value of fifty dollars or more in the reporting period, then, for the purpose of complying with the provisions of RCW 42.17.090 (1)(f);~~

~~(a) Such candidate or political committee shall identify the candidate or political committee benefitted by such expenditure and state the value thereof; and~~

~~(b) The candidate or political committee that receives benefit of such expenditure or expenditures shall report a corresponding amount as a contribution received and as an expenditure made by such candidate or political committee.~~

~~(2) Whenever a candidate or a political committee makes an in-kind expenditure which supports or opposes more than one candidate or ballot proposition, the person making such expenditure shall identify each candidate or ballot proposition to which such support or opposition is directed and, if the aggregate expenditure amounts to fifty dollars or more, shall state the prorated amount of the expenditure or expenditures properly attributable to each such candidate or ballot proposition.~~

~~(3) Whenever a candidate or political committee provides its equipment, property or other facilities owned, retained, leased or controlled by it to another candidate or political committee, the fair market value of the use of such~~



equipment, property or other facilities, if it amounts to fifty dollars or more, shall be reported as follows:

(a) By the candidate or political committee providing the equipment, property or other facilities, by attaching to its form C-4, Schedule B, a statement setting forth the name of the candidate or political committee benefitted and the date, description and value of the in-kind contribution made by it;

(b) By the candidate or political committee benefitting from the use of such equipment, property or other facilities, by reporting the value of such use in its form C-4, Schedule B, both as a contribution and as an expenditure.

(4) Notwithstanding subsections (1) through (3) of this section, whenever a candidate or political committee subject to the contribution limits of RCW 42.17.640 receives an in-kind contribution from any person valued at more than \$25 in the aggregate during the election cycle, or year for political committees, the contribution is reportable pursuant to RCW 42.17.090 and subject to limits provided in RCW 42.17.640.

An in-kind contribution occurs when a person provides goods, services or anything of value, other than money or its equivalent, to a candidate or political committee free-of-charge or for less than fair market value, unless the item or service given is not a contribution according to RCW 42.17.020 (14)(b) or WAC 390-17-405.

(2) An in-kind contribution also occurs when a person makes an expenditure that

- supports or opposes a candidate or a ballot measure.
- meets the definition of contribution in RCW 42.17.020(14) or WAC 390-05-210, and
- is other than a monetary contribution made directly to a candidate or political committee.

For example, an in-kind contribution occurs when a person, after collaborating with a candidate or a candidate's agent, purchases space in a newspaper for political advertising supporting that candidate or opposing that candidate's opponent.

(3) According to RCW 42.17.095(8) and WAC 390-16-238, a candidate may not use his or her campaign funds to make a contribution, including an in-kind contribution, to another candidate or a political committee. However, under RCW 42.17.095(3), a candidate may use surplus funds as defined in RCW 42.17.020 to make a contribution to a political party or caucus political committee.

**(4) In-Kind Contributions to Recipients Who Have Limits.** (a) If a state office candidate receives in-kind contributions from any person valued at more than \$25 in the aggregate during an election cycle, the contribution is reportable by the giver and the recipient pursuant to RCW 42.17 and is subject to the applicable contribution limit provided in RCW 42.17.640.

(b) If a bona fide political party or legislative caucus committee receives in-kind contributions from any person valued at more than \$25 in the aggregate during a calendar year, the contribution is reportable by the giver and the recipient pursuant to RCW 42.17 and is subject to the applicable contribution limit provided in RCW 42.17.640.

(c) If a state official against whom recall charges have been filed or a political committee supporting the recall of a state official receives in-kind contributions from any person

valued at more than \$25 in the aggregate during a recall campaign, the contribution is reportable by the giver and the recipient pursuant to RCW 42.17 and is subject to the applicable contribution limits provided in RCW 42.17.640.

**(5) Political Committees That Make In-Kind Contributions.** A political committee that makes in-kind contributions to a candidate or political committee totaling more than \$50 in the aggregate during a reporting period must identify the recipient and the amount of the contribution as part of its C-4 report covering that period.

If the in-kind contribution is in the form of an expenditure that has been obligated, but not yet paid, the identity of the recipient candidate or political committee, along with a good faith estimate of the value of the contribution, must be disclosed in part 3 of Schedule B, in addition to the other information required by the form. When the expense is paid, the recipient's name and the amount of the contribution must be disclosed on Schedule A, along with the other information required by the form.

If a political committee provides equipment, property or anything else of value owned, leased or controlled by it to a candidate or political committee, the contributing committee must attach a statement to its C-4 report showing the name of the candidate or political committee to whom the contribution was made and the date, description and fair market value of the in-kind contribution.

**(6) Reporting by Recipients.** Except as provided in subsection (4), in-kind contributions from one source are not reportable by the recipient candidate or political committee until the aggregate value of all in-kind contributions received from that source during a reporting period is more than \$50. If this threshold is met, the in-kind contributions must be reported in part 1 of Schedule B to the C-4 report covering that reporting period.

**(7) Valuing In-Kind Contributions.** (a) For purposes of determining the value of goods or services provided as in-kind contributions, refer to WAC 390-05-235, Definition — Fair Market Value.

(b) If an expenditure that constitutes an in-kind contribution is made, the value of the in-kind contribution to a particular candidate or political committee is the portion of the expense that benefits the candidate or political committee.

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 98-09-020

PROPOSED RULES

PUBLIC DISCLOSURE COMMISSION

[Filed April 7, 1998, 2:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-06-052.

Title of Rule: WAC 390-16-200 Encouraging expenditures to avoid contributions—Result.

Purpose: To repeal this rule.

Statutory Authority for Adoption: RCW 42.17.370(1).

PROPOSED

Statute Being Implemented: RCW 42.17.020(14), [42.17].080 and [42.17].090.

Summary: The original intent of the rule was to put candidates and political committees on notice that if they advise, counsel or otherwise encourage some other person or entity to make an expenditure, that expenditure is viewed as being made by the candidate or political committee.

Reasons Supporting Proposal: This rule is no longer necessary. The definition of contribution in RCW 42.17.020 (14)(a)(ii) includes the situation described in the rule. The further clarification provided in the rule is not useful and may be misinterpreted by those subject to the campaign disclosure law.

Name of Agency Personnel Responsible for Drafting and Implementation: Vicki Rippie, Public Disclosure Commission, 711 Capitol Way, Room 403, Olympia, (360) 586-4838; and Enforcement: Susan Harris, Public Disclosure Commission, 711 Capitol Way, Room 403, Olympia, (360) 753-1981.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Repeal of this rule is warranted because it is no longer needed.

Proposal Changes the Following Existing Rules: The existing rule is proposed for repeal.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The repeal of this rule does not impact small businesses. By law, if a candidate or political committee collaborates with a small business and that small business makes an expenditure benefitting that candidate or political committee, the small business will have made a contribution to that candidate or political committee.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Public Disclosure Commission is not an agency listed in subsection (5)(a)(i) of section 201. Further, the Public Disclosure Commission does not voluntarily make section 201 applicable to this rule adoption pursuant to subsection (5)(a)(ii) of section 201, and to date the Joint Administrative Rules Review Committee has not made section 201 applicable to this rule adoption.

Hearing Location: Second Floor Conference Room, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA, on May 26, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Leigh Hirschi-Mehan, by May 25, 1998.

Submit Written Comments to: Vicki Rippie, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, FAX (360) 753-1112, by May 15, 1998.

Date of Intended Adoption: May 26, 1998.

April 7, 1998  
Melissa Warheit  
Executive Director

**REPEALER**

The following chapter [section] of the Washington Administrative Code is repealed:

WAC 390-16-200

Encouraging expenditures to avoid contributions—Result.

**WSR 98-09-021  
PROPOSED RULES**

**PUBLIC DISCLOSURE COMMISSION**

[Filed April 7, 1998, 2:28 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-06-051.

Title of Rule: WAC 390-13-100 Duties of election officials receiving copies of campaign finance reports.

Purpose: The law requires that campaign disclosure reports be filed with county auditors as well as the Public Disclosure Commission. The law also requires the Public Disclosure Commission to adopt rules setting out how counties are to handle disclosure reports. This direction to counties is provided in WAC 390-13-100.

Statutory Authority for Adoption: RCW 42.17.370(1) and [42.17].375.

Statute Being Implemented: RCW 42.17.375.

Summary: The existing rule specifies how counties are to process campaign disclosure reports and afford prompt public access to them. The proposed amendment simply allows counties to establish and maintain their campaign disclosure files in an electronic format, should a county choose to do so.

Reasons Supporting Proposal: The proposed amendment recognizes that some counties are, or soon will be, converting their paper and/or micrographics filing systems to electronic file management systems.

Name of Agency Personnel Responsible for Drafting and Implementation: Vicki Rippie, Public Disclosure Commission, 711 Capitol Way, Room 403, Olympia, (360) 586-4838; and Enforcement: Susan Harris, Public Disclosure Commission, 711 Capitol Way, Room 403, Olympia, (360) 753-1981.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The new language expressly allows county election offices to keep the campaign disclosure reports provided to them by area candidates and political committee in electronic files. Should a county choose to establish such a system, however, it must provide the public with equipment for viewing the reports and reproducing them on paper.

Proposal Changes the Following Existing Rules: The amendment gives counties another option in the method for maintaining and giving the public access to the Public Disclosure Commission reports.

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

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Public Disclosure Commission is

not an agency listed in subsection (5)(a)(i) of section 201. Further, the Public Disclosure Commission does not voluntarily make section 201 applicable to this rule adoption pursuant to subsection (5)(a)(ii) of section 201, and to date the Joint Administrative Rules Review Committee has not made section 201 applicable to this rule adoption.

Hearing Location: Second Floor Conference Room, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA, on May 26, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Leigh Hirschi-Mehan, by May 25, 1998.

Submit Written Comments to: Vicki Rippie, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, FAX (360) 753-1112, by May 15, 1998.

Date of Intended Adoption: May 26, 1998.

April 7, 1998  
Melissa Warheit  
Executive Director

**AMENDATORY SECTION** (Amending Order 83-02 [85-03], filed 8/24/83 [7/9/85])

**WAC 390-13-100 Duties of elections officials receiving copies of campaign finance reports.** (1) Pursuant to RCW 42.17.375, when arranging, indexing, handling and providing access to reports filed with the county as required by chapter 42.17 RCW, county election officers shall adhere to the following:

(a) Each report on receipt shall be marked with the date (or some means of determining the date) the report was post-marked and/or the date on which it was received by the elections office.

(b) Files for these reports shall be maintained separate from all other reports and documents in the office and shall be arranged alphabetically by the name of the candidate or committee. Elections officers may segregate files into additional categories, if desired.

(c) Files may be maintained in paper or electronic form or on micrographics. If files are maintained in electronic form or on micrographics, equipment for viewing (~~(film)~~) and (~~(for)~~) reproducing (~~(individual frames)~~) reports on paper must be made available to the public.

(d) A separate, special index shall be maintained showing the name of each candidate or committee for whom reports are on file. The index need not list each report subsequently filed. The index shall be readily available for public inspection.

(e) Reports shall be placed in the files and available for public inspection by the end of the next business day following receipt.

(f) Mindful that the public's right to know of the financing of political campaigns is paramount, elections officials shall give priority attention to and promptly honor each request for public inspection of the campaign finance report files.

(2) Copies of reports must be maintained by elections officers for a period of at least six years, in accordance with RCW 42.17.450, and records retention schedules prepared pursuant to chapter 40.14 RCW.

(3) A description of the county's method of filing and indexing campaign finance reports shall be sent to the public disclosure commission within 30 days of the effective date of this rule. The description shall be updated any time there is a revision to the filing and indexing system.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

### WSR 98-09-039

#### WITHDRAWAL OF PROPOSED RULES GAMBLING COMMISSION (By the Code Reviser's Office)

[Filed April 14, 1998, 8:00 a.m.]

WAC 230-08-070 and 230-20-325, proposed by the Gambling Commission in WSR 97-20-041 appearing in issue 97-20 of the State Register, which was distributed on October 15, 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 98-09-040

#### WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF HEALTH (By the Code Reviser's Office)

[Filed April 14, 1998, 8:01 a.m.]

WAC 246-840-010 and 246-840-985, proposed by the Department of Health in WSR 97-20-161 appearing in issue 97-20 of the State Register, which was distributed on October 15, 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 98-09-046

#### PROPOSED RULES DEPARTMENT OF NATURAL RESOURCES

[Order 650—Filed April 15, 1998, 10:35 a.m.]

Original Notice.

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

Title of Rule: Specific rules for burning that requires a written burning permit.

PROPOSED

Purpose: Set fees for permits to burn forest debris and specify other conditions for written burning permits.

Statutory Authority for Adoption: RCW 70.94.660 and 76.04.205.

Statute Being Implemented: RCW 70.94.660 and 76.04.205.

Summary: Amend the fee schedule to increase fees by 4.18 percent as directed under RCW 70.94.660.

Reasons Supporting Proposal: The department is required by RCW 76.04.660 to set fees at a level necessary to support the program. The fee increase will account for inflation in program costs over the last year.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark Gray, Olympia, phone 902-1300.

Name of Proponent: Department of Natural Resources, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The Clean Air Act requires the Department of Natural Resources to take responsibility for issuing and regulating burn permit where the Department of Natural Resources has protection responsibilities. The act also requires the Department of Natural Resources to assess fees for its permits, and that fees be set at a level to recover costs of the program.

Fees will be adjusted by 4.18 percent, amount allowed under RCW 43.135.055. The purpose of the proposed change is to adjust the burning permit fee schedule to a level necessary to cover costs of the smoke management program. Fees will be adjusted by 4.18 percent, the amount allowed under RCW 43.135.055. This will result in a one dollar increase for ninety percent of permittees, and no more than a fifteen dollar increase for ninety-nine percent of all burns.

Proposal Changes the Following Existing Rules: The proposal adjusts the fee schedule in WAC 332-24-221 by the amount allowed under RCW 43.135.055.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The fee increase will be one dollar for ninety percent of all permits issued. The rule does not impose more than minor costs on more than twenty percent of all industries or more than ten percent of one industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Rules that set or adjust fees or rates pursuant to legislative standards are exempt from section 201, chapter 403, Laws of 1995.

Hearing Location: Natural Resources Building, Room 461, 1111 Washington Street S.E., Olympia, WA, on May 28, 1998, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Mark Gray by May 22, 1998, TDD (360) 902-1156.

Submit Written Comments to: Mark Gray, FAX (360) 902-1757 by May 28, 1998.

Date of Intended Adoption: May 29, 1998.

April 14, 1998  
Charles Baum  
Supervisor

AMENDATORY SECTION (Amending Order 640, filed 5/30/97, effective 7/1/97)

**WAC 332-24-221 Specific rules for burning that requires a written burning permit.** Persons not able to meet the requirements of WAC 332-24-205 and 332-24-211 must apply for a written burning permit through the department. In addition to the rules outlined in WAC 332-24-205, the following are additional requirements for written permits:

(1) Written burning permits will be in effect for one year from the validation date, unless suspended or revoked.

(2) Fees for written burning permits will be charged and collected pursuant to chapter 70.94 RCW and shall be ~~((twenty-three))~~ twenty-four dollars seventy-five cents for under one hundred tons of consumable debris; and for burns one hundred tons of consumable debris and greater as follows:

Consumable Debris		Fee schedule	
100	- 500 tons	<del>((119))</del>	<u>123</u>
501	- 1,000 tons	<del>((364))</del>	<u>379</u>
1,001	- 1,500 tons	<del>((606))</del>	<u>631</u>
1,501	- 2,000 tons	<del>((850))</del>	<u>885</u>
2,001	- 2,500 tons	<del>((1,093))</del>	<u>1,138</u>
2,501	- 3,000 tons	<del>((1,337))</del>	<u>1,392</u>
3,001	- 3,500 tons	<del>((1,578))</del>	<u>1,643</u>
3,501	- 4,000 tons	<del>((1,821))</del>	<u>1,897</u>
4,001	- 4,500 tons	<del>((2,065))</del>	<u>2,151</u>
4,501	- 5,000 tons	<del>((2,308))</del>	<u>2,404</u>
5,001	- 5,500 tons	<del>((2,552))</del>	<u>2,658</u>
5,501	- 6,000 tons	<del>((2,795))</del>	<u>2,911</u>
6,001	- 6,500 tons	<del>((3,039))</del>	<u>3,166</u>
6,501	- 7,000 tons	<del>((3,282))</del>	<u>3,419</u>
7,001	- 7,500 tons	<del>((3,526))</del>	<u>3,673</u>
7,501	- 8,000 tons	<del>((3,769))</del>	<u>3,926</u>
8,001	- 8,500 tons	<del>((4,013))</del>	<u>4,180</u>
8,501	- 9,000 tons	<del>((4,256))</del>	<u>4,433</u>
9,001	- 9,500 tons	<del>((4,500))</del>	<u>4,688</u>
9,501	- 10,000 tons	<del>((4,741))</del>	<u>4,939</u>
10,001	+ tons	<del>((4,985))</del>	<u>5,193</u>

For purposes of this section, consumable debris is the amount of debris that the department determines will be consumed by the proposed burning.

(3) Written burning permits are not considered valid unless all of the following conditions apply:

(a) The written permit has been signed by the applicant agreeing to follow all requirements of chapter 332-24 WAC, the smoke management plan in effect at the time of the burning, and any additional terms and conditions specified by the department in writing; and

(b) The required permit fee has been secured or paid according to approved department procedures; and

(c) The person doing the burning has the permit in possession while burning and is complying with all terms and

conditions of such permit, the smoke management plan in effect at the time of the burning, and all applicable portions of chapter 332-24 WAC.

(4) Permits are written only for the burn site and fuel quantity that is presented at the time of the inspection. Addition of fuel, or changing the burn site after the site inspection has been made, is prohibited unless a new inspection is made and an added permit fee is paid, if required.

**WSR 98-09-051**

**PROPOSED RULES**

**DEPARTMENT OF LICENSING**

(Board of Registration for Professional  
Engineers and Land Surveyors)

[Filed April 16, 1998, 8:05 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 97-18-038.

Title of Rule: Adjust and adopt fees and charges for engineer and land surveyor program. WAC 196-26-020 and 196-26-030.

Purpose: To adopt necessary fee adjustments and new fee and charge categories related to the costs for administering engineering and land surveyor examinations. Fee increase on license renewal for engineers and land surveyors from \$48 per year to \$50 per year. Removal of language from WAC 196-26-030 that is out-of-date and no longer applicable to the license renewal process.

Other Identifying Information: The new fees and charges related to structural engineering are fees based upon proposed adoption of new and amended rules under WSR 98-08-105. The application fees for engineering corporations is reduced from the current \$300 to \$150 with the same fee applied to the newly created business category of limited liability company. The annual renewal fee for all firms will remain at \$100 per year. The license renewal increases are proposed following successive fee reductions in this category in 1993 and 1996.

Statutory Authority for Adoption: RCW 43.24.086, 18.43.050, [18.43.]060, [18.43.]080, [18.43.]100, [18.43.]130, and [18.43.]160 and chapter 247, Laws of 1997.

Statute Being Implemented: Chapter 247, Laws of 1997, chapter 18.43 RCW and RCW 43.24.086.

Summary: The fee proposals include annual renewal of license for engineers and land surveyors from \$48/year to \$50/year. This is within the I-601 limitation. New fee categories are established for the new structural engineering examinations. New fee categories are established for limited liability companies as provided in chapter 247, Laws of 1997. Also, examination charges applied by the national vendor where examinations are purchased are changed accordingly.

Reasons Supporting Proposal: The renewal fee proposals are within the I-601 limitation and are necessary to avoid significant drop in the fund balance of the engineers dedicated account 024 before the end of the next biennium. Fees for examinations are new categories for examinations that

were established by the board following rule review under Executive Order No. 97-02.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: George A. Twiss, 405 Black Lake Boulevard, Olympia, WA, phone 586-3361.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: See Summary above.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rule amendments are to establish new and adjusted fees that are consistent with program needs, rule review criteria, legislation passed in 1997 and the removal of obsolete and/or unnecessary information.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. In the initial distribution for rule changes upon which these fees are based, we received no documented significant impacts from over 5,200 notices distributed. The renewal fee increases are raised less than the allowable increase under I-601. These increases are made after successive decreases were implemented in the license renewals in 1993 and 1996. Those reductions brought the two-year renewal from a high of \$140 to the current \$96.

The examination charges listed in the schedule are assessed by the examination vendor. Those charges are paid at the time of application and the proportional amount to cover the vendor's charges are placed in a refund account and not in state revenue. The other fees established under this proposal are new fees for categories that did not previously exist that were created following the detailed rule review under Executive Order No. 97-02 or in accordance with authorization under chapter 247, Laws of 1997.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Department of Licensing, BPD Conference Room No. 1, Business and Professions Division, 405 Black Lake Boulevard, Olympia, WA 98502, on May 27, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Shanan Gillespie by May 22, 1998, TDD (360) 586-2788, or (360) 586-6966.

Submit Written Comments to: Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649.

Date of Intended Adoption: May 27, 1998.

April 15, 1998

George A. Twiss  
Executive Director

**AMENDATORY SECTION** (Amending WSR 95-23-013, filed 11/7/95, effective 1/1/96)

**WAC 196-26-020 Engineer and land surveyor fees and charges.** The following fees and charges shall be

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assessed by the business and professions division of the department of licensing: Examination charges shall be collected from examination candidates for examinations ordered from the national vendor on their behalf. The charges recovered by the department shall be refunded to the vendor for the costs of purchasing and grading exams.

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Title of Fee and/or Charge	Amount
<b>Engineers:</b>	
Professional engineer application, examination, and certificate (\$ <del>((60))</del> 75 exam charge; \$40 agency fee)	( <del>(-100.00)</del> ) \$ <u>115.00</u>
<del>((Structural engineer application, examination, and certificate</del>	<del>175.00))</del>
Professional engineer examination retake (\$ <del>((60))</del> 75 exam charge; \$30 agency fee)	( <del>(90.00)</del> ) <u>105.00</u>
<del>((Structural exam retake</del>	<del>160.00))</del>
<u>Structural engineer application, examination, and certificate (Western states)</u>	<u>175.00</u>
<u>Structural engineer application and examination (NCEES Structural I) (\$75 exam charge; \$30 agency fee)</u>	<u>105.00</u>
<u>Structural engineer application, examination and certificate (NCEES Structural II) (\$150 exam charge; \$55 agency fee)</u>	<u>205.00</u>
<u>Structural engineer examination retake: (NCEES Structural I) (\$75 exam charge; \$30 agency fee)</u>	<u>105.00</u>
<u>(NCEES Structural II) (\$150 exam charge; \$30 agency fee)</u>	<u>180.00</u>
<u>Structural engineer addendum examination (taken after Structural I &amp; II examinations)</u>	<u>50.00</u>
<u>Structural engineer addendum retake examination</u>	<u>50.00</u>
Comity	100.00
Replacement certificate	25.00
Exam (locally prepared) rescore	50.00
Renewal (per year)	( <del>(48.00)</del> ) <u>50.00</u>
Late renewal penalty	( <del>(48.00)</del> ) <u>50.00</u>
Duplicate license	15.00
Temporary permit	100.00

<b>Engineer in training:</b>	
Application, examination, and certificate (\$30 exam charge; \$20 agency fee)	50.00

Title of Fee and/or Charge	Amount
Examination retake (\$30 exam charge; \$20 agency fee)	50.00
Replacement certificate	25.00
<b>Land surveyor:</b>	
Application, examination, and certificate	100.00
<del>((FLS examination retake (\$40 exam charge; \$0 agency fee)</del>	<del>40.00))</del>
PPLS examination retake	60.00
Comity	100.00
Comity exam retake	60.00
PPLS exam rescore	50.00
Renewal (per year)	( <del>(48.00)</del> ) <u>50.00</u>
Late renewal penalty	( <del>(48.00)</del> ) <u>50.00</u>
Replacement certificate	25.00
Duplicate license	15.00
<b>Land surveyor in training (effective April 1, 1996):</b>	
Application, examination, and certificate (\$ <del>((40))</del> 65 exam charge; \$10 agency fee)	( <del>(50.00)</del> ) <u>75.00</u>
Examination retake (\$ <del>((40))</del> 65 exam charge; \$10 agency fee)	( <del>(50.00)</del> ) <u>75.00</u>
Replacement certificate	25.00
<b>Engineer corporation, joint stock association and limited liability company:</b>	
Certificate of authorization	( <del>(300.00)</del> ) <u>150.00</u>
Renewal (per year)	100.00
Duplicate license	15.00
Replacement certificate	25.00
<del>((Engineer partnership: Certification of authorization</del>	<del>300.00)</del>
<del>Renewal (per year)</del>	<del>100.00)</del>
<del>Replacement certificate</del>	<del>25.00)</del>
<del>Duplicate license</del>	<del>15.00))</del>

AMENDATORY SECTION (Amending WSR 91-22-017, filed 10/28/91, effective 11/28/91)

**WAC 196-26-030 License renewals.** The licenses for those individuals registered as a professional engineer and/or a professional land surveyor shall be renewed every two years. The date of renewal shall be the licensee's birth date.

Licenses who fail to pay the prescribed renewal fee within ninety days of the license expiration date will be subject to the late payment penalty fee as set forth in WAC 196-24-060.

~~(Effective with renewals due on July 1, 1991, and continuing through those due on June 30, 1992, the renewal period for engineers and land surveyors will be converted from one to two years. This conversion will be accomplished as follows:~~

~~(1) Current licenses as of July 1, 1991, with a birth date which is an even number shall initially renew for one year. All subsequent renewals shall be for a two-year period.~~

~~(2) Current licenses as of July 1, 1991, with a birth date which is an odd number shall initially renew for a two-year period. All subsequent renewals shall be for a two-year period.)~~

The initial license issued to an individual shall expire on the licensee's next birth date. However, if the licensee's next birth date is within three months of the initial date of licensure, the original license shall expire on his or her second birth date following original licensure. All subsequent renewals shall be for a two-year period.

The certificates of authorization for corporations ~~(and partnerships)~~, joint stock associations and limited liability companies (LLC) shall be renewed annually. The date of renewal shall be the month and day of receipt of their original license application. ~~(Effective with renewals due on December 31, 1991, corporation and partnership renewals will be converted to the month and day of original application receipt. This conversion will be accomplished as follows:~~

~~(a) Renewal notices issued for payment by December 31, 1991, will include a prorated renewal fee equal to one-twelfth of the annual fee for each month until their new renewal date (month and day of original application receipt). For purposes of this conversion, all actively licensed corporations and partnerships will be issued a renewal which will at minimum expire in December 1992 and at maximum expire in November 1993.~~

~~(b) All subsequent renewals shall be for one year.)~~ Failure to pay the prescribed fee by the date of expiration shall cause the certificate to become invalid.

**WSR 98-09-057**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 (Business and Professions Division)  
 [Filed April 17, 1998, 11:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-05-012.

Title of Rule: WAC 308-12-326 Architect fees.

Purpose: To adjust fees that architects pay for services and licensing provided by the department.

Statutory Authority for Adoption: RCW 18.08.430(1) and 43.24.086.

Statute Being Implemented: RCW 43.24.086.

Summary: The fees charged by the agency for administering application, registration, and the renewal process are

set at a level to support operation of the program. The increases in selected fees are to offset increases in selected costs to the program. All increases are in accordance with RCW 43.135.055 (Initiative 601) and are within the limitations of the Fiscal Growth Index for FY99 of 4.18%.

Reasons Supporting Proposal: Increased costs to the architect program for fiscal year 1999 must be supported by fees assessed to licensees, applicants for reciprocal registration, corporate certificates of authority, and registration certificates.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James D. Hanson, 405 Black Lake Boulevard, Olympia, WA, phone (360) 753-1153.

Name of Proponent: Department of Licensing and Washington State Board of Registration for Architects, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-12-326 lists the services for which fees are charged and the respective amount for each of the services. All program forms list the respective fees that are required with a form submittal. The purpose of all listed fees is to recover the cost of administering the program. The anticipated effects of the listing of fees is to inform interested parties, provide timely customer service, reduce telephonic inquiries, reduce delays in administration waiting for required fees to be submitted, and fully comply with the statutory requirement of RCW 43.24.086.

Proposal Changes the Following Existing Rules: The existing version of this section lists fees in amounts that supported administering the architect program as it was funded in the 95-97 biennium budget. The 97-99 biennium budget requires minor increases to keep the program financially solvent, fund the required program expenditures, and meet the requirement to fully support the program with assessed revenue.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Each fee that was increased was within the limits of RCW 43.135.055. No fee increase exceeded fifty dollars to individuals or businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Licensing is not subject to section 201, chapter 403, Laws of 1995, or RCW 34.05.328(5). Additionally, this section does not apply to rules that set or adjust fees or rates pursuant to legislative standards. The fees and fee changes in this rule are required by RCW 43.24.086.

Hearing Location: Conference Room 1, Business and Professions Division, 405 Black Lake Boulevard, Olympia, WA 98502, on May 28, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Joan Robinson by May 15, 1998, TDD (360) 586-2788 or FAX (360) 664-2551.

Submit Written Comments to: James D. Hanson, Board of Registration for Architects, P.O. Box 9045, Olympia, WA 98507-9045, by May 13, 1998, voice (360) 753-1153 or FAX (360) 664-2551.

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Date of Intended Adoption: May 28, 1998.  
 April 17, 1998  
 James D. Hanson  
 Program Administrator

**AMENDATORY SECTION** (Amending WSR 97-13-095, filed 6/18/97, effective 7/19/97)

**WAC 308-12-326 Architect fees.** The following fees shall be charged by the business and professions division of the department of licensing:

Title of Fee	Fee
Examination application	\$100.00
Reciprocity application	( <del>364.00</del> ) <u>378.00</u>
Initial registration	( <del>140.00</del> ) <u>145.00</u>
Oral examination	50.00
Registration renewal (3 years)	( <del>140.00</del> ) <u>145.00</u>
Late renewal	( <del>46.00</del> ) <u>48.00</u>
Certificate replacement	15.00
Duplicate license	15.00
Certification	( <del>26.00</del> ) <u>27.00</u>
 Corporations:	
Certificate of authorization	( <del>260.00</del> ) <u>270.00</u>
Certificate of authorization renewal	( <del>130.00</del> ) <u>135.00</u>

**WSR 98-09-058**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed April 17, 1998, 11:35 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 98-03-047 on January 15, 1998.

Title of Rule: Punchboard/pull tab rules and housekeeping changes. WAC 230-08-017, 230-30-030, 230-30-040, 230-30-045, 230-30-070, 230-30-080, and 230-30-106.

Purpose: In addition to housekeeping changes, reporting requirements for defective punchboard and pull tab games were changed to help ensure that staff are aware of all defective pull tab series. Also, the restrictions on the payout calculations of carry-over jackpot prizes and prize payouts were clarified.

Statutory Authority for Adoption: RCW 9.46.070.

Summary: See Purpose above.

Reasons Supporting Proposal: Housekeeping and to facilitate regulation.

Name of Agency Personnel Responsible for Drafting: Soojin Kim, Lacey, (360) 438-7654 ext. 310; Implementation: Ben Bishop, Lacey, (360) 438-7640; and Enforcement: Carrie Tellefson, Lacey, (360) 438-7636.

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 above.

Proposal Changes the Following Existing Rules: See Purpose above.

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

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

Hearing Location: Maple Hall Convention Center, 104 Commercial Street, La Conner, WA 98257, (360) 466-3101, on June 12, 1998, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Susan Green by October 1, 1997 [June 1, 1998], TDD (360) 438-7638, or (360) 438-7654 ext. 302.

Submit Written Comments to: Soojin Kim, Mailstop 42400, Olympia, WA 98504-2400, FAX (360) 438-8652 by May 31, 1997 [1998].

Date of Intended Adoption: June 12, 1997 [1998].

Soojin Kim  
 Rules and Policy Coordinator

**AMENDATORY SECTION** (Amending WSR 97-14-012, filed 6/20/97, effective 7/21/97)

**WAC 230-08-017 Control of gambling equipment—Use of identification and inspection services stamps.** To ensure gambling equipment is used only as authorized, manufacturers, distributors, and operators shall maintain close control over all gambling equipment in their possession. Each transfer of such equipment shall be documented by completing an invoice or other written record setting forth the information required by WAC 230-08-040. Identification and inspection services stamps obtained from the commission shall be used to identify gambling equipment and shall be permanently and conspicuously affixed to all equipment and devices designated by the commission. Once attached, identification and inspection services stamps shall not be removed, disfigured, or otherwise tampered with by any person. These stamps shall be attached and controlled in the following manner:

(1) Identification and inspection services stamps shall be attached to the following gambling equipment and devices:

- (a) Punchboards and pull tab series;
- (b) Pull tab dispensing devices;

(c) Disposable bingo cards: *Provided*, That this requirement applies to cards shipped for use in Washington state after December 31, 1993. All inventory on hand at the distributor and operator level at the close of business on December 31, 1993, shall be exempt from this requirement;

(d) Coin or token-activated amusement games operated at any Class A amusement game license location;

(e) Electronic bingo card daubers; and

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(f) Other gambling equipment or devices, as determined by the director.

(2) Identification and inspection services stamps shall only be sold to and attached by licensed manufacturers or commission staff: *Provided*, That a licensed owner of controlled gambling equipment may purchase and attach stamps as outlined in subsections (7) and (8) of this section;

(3) The fee charged for identification and inspection services stamps shall be set by the commission at a level sufficient to fund regulation and control of gambling equipment. Fees shall be as set out below:

(a) Punchboards and pull tabs:

(i) Standard - wagers fifty cents and below ((f)) - twenty-seven cents;

(ii) Standard - wagers over fifty cents - one dollar;

(iii) Progressive jackpot pull tab series - ten dollars per series;

(iv) Pull tab series with carry-over jackpots - one dollar:

(b) Pull tab dispensing devices:

(i) Mechanical and electro-mechanical - twenty-seven cents;

(ii) Electronic - pull tab dispensing devices that require initial and ongoing evaluation of electronic components or functions, such as reading encoded data on pull tabs, accounting for income or prizes, and other functions determined by the director - one hundred dollars annually.

(c) Disposable bingo cards:

(i) Sets of individual cards or sheets of cards - twenty-seven cents;

(ii) Collations of cards - one dollar and ten cents.

(d) Coin or token-activated amusement games operated at any Class A amusement game license location - twenty-five dollars annually;

(e) Electronic bingo card daubers - ten dollars annually;

(f) Other equipment or devices - the actual cost of inspection or approval, as determined by the director.

(4) Devices that require identification and inspection services stamps to be installed annually shall have such stamps attached prior to placing any device into play and, on or before December 31 of the year preceding operation for each subsequent year: *Provided*, That annual identification and inspection services stamps shall be purchased and attached to electronic pull tab dispensing devices, coin operated amusement games, and electronic bingo card daubers located in the state on December 31, 1996, prior to the operation of such devices on or after January 1, 1997.

(5) Identification stamps shall only be affixed to gambling equipment or devices in such a manner as to assure reasonable inspection without obstruction. If equipment is enclosed or packaged within protective materials, the stamps shall be readily visible for inspection without removal of any portion of the protective packaging: *Provided*, That when more than one device is packed in a shipping carton, this requirement shall not apply if the identification and inspection services stamp numbers of all devices contained in the carton are printed or otherwise noted on the outside of the carton. Stamps and records entry labels shall be affixed in the following manner:

(a) Punchboards - on the reverse side in an area that will not obstruct removal of punches: *Provided*, That if sufficient

space is not available on the reverse side, the records entry labels may be wrapped around and/or partially attached to the edge of a punchboard in a manner that will not obstruct display of prizes available or other information required by rules of the commission;

(b) Pull tabs - on the face or reverse side of the flare. If placed on the face, then they must be in an area that will not obstruct prizes available or any other information required by rules of the commission;

(c) Pull tab dispensing devices - on the outside of the main body, in an area that is not normally removed and replaced, and in a manner that will not obstruct the view of the pull tabs available for play. The records entry labels shall not be affixed to dispensing devices and may be discarded; and

(d) Disposable bingo cards - on the packing label attached to the outside of the shipping carton. Records entry labels shall be attached to the packing slip: *Provided*, That when a set or collation of cards is packed in more than one shipping carton, the stamp shall be attached to carton number one and the stamp number imprinted on all remaining shipping cartons.

(6) Identification and inspection services stamps shall not be attached to gambling equipment or devices that do not comply with rules of the commission. If a piece of equipment or a device requires specific commission approval, stamps shall not be affixed prior to such approval.

(7) A licensed owner of gambling devices which require annual identifications and inspection services stamps may purchase such from the commission. The licensee shall submit the appropriate fee, along with a form provided by the commission, to obtain the stamps.

(8) A licensed owner of pull tab dispensing devices may obtain a commission identification and inspection services stamp to replace an identification stamp affixed to a pull tab dispensing device that has become unidentifiable due to wear. The fee for replacement of the stamp shall be as required by WAC 230-04-202 and/or 230-04-203. The operator or distributor shall furnish the following information to the commission:

(a) A copy of the invoice from the operator, distributor or manufacturer for the purchase of the dispensing device in question; or

(b) A complete description of the pull tab dispensing device, serial number, manufacturer, and the commission stamp number previously affixed to the device, if known.

(9) Manufacturers shall maintain records that will allow accountability for all identification and inspection services stamps issued to them by the commission for at least three years after they are affixed to devices and sold. This accountability shall be by indefinite retention of unused or damaged stamps or by records as set out in WAC 230-08-025: *Provided*, That damaged stamps may be returned to the commission and will be replaced with serviceable stamps if they are accompanied by a detailed listing of the damaged stamps and a ten cent per stamp service charge.

**AMENDATORY SECTION** (Amending WSR 97-14-012, filed 6/20/97, effective 7/21/97)

**WAC 230-30-030 Punchboard and pull tab quality control program—Special inspections, defective devices, reimbursements, and fees.** In order to ensure the integrity of punchboards and pull tab series, the commission shall establish and maintain a quality control program. This program shall include a level of inspection and evaluation deemed necessary by commission staff to assure standards set forth in this title are met. The cost of administering this program shall be borne by licensed manufacturers. The quality control program shall include at least the following:

(1) Special inspections - the commission shall have the authority to select any punchboard or pull tab series, whether held by an operator, storage service, distributor, or manufacturer and to examine the quality and/or integrity of the punchboard or pull tab series in any manner, including punching out or pulling all chances remaining thereon. Manufacturers shall be responsible for reimbursing distributors or operators for unused games selected by the commission for quality control testing purposes. The reimbursement process shall be determined by commission policy. Manufacturers may be billed for the cost of quality control investigations which exceed forty hours of commission staff time.

(2) Defective punchboards or pull tab series - each punchboard or pull tab series which is deemed to be defective or unplayable shall be treated as follows, based on the status of the game:

(a) No punchboard or pull tab series which has been ~~opened, prepared for play, or placed out for play ((and for which punches or tabs have been sold))~~ shall be returned to the distributor or manufacturer without commission approval. Upon discovery of a defect, the operator shall remove the board or series from play and notify the commission. The commission shall complete a quality control report which shall be used to return the board or series to the distributor or manufacturer; and

(b) Defective or recalled boards or series which have not yet been opened may be returned to the distributor or manufacturer without a quality control report.

(3) Credits or reimbursements for defective punchboards or pull tab series:

(a) Manufacturers shall reimburse distributors or operators for the cost of a replacement board or series which comply with subsection (2) of this section;

(b) Manufacturers may, at their discretion, reimburse operators for only actual net losses resulting from the play of a board or series due to its defect; and

(c) Credits and reimbursements for defective punchboards or pull tab series shall be handled as follows:

(i) All boards or series returned to a distributor or manufacturer shall be properly recorded on a credit memo in accordance with WAC 230-08-025; and

(ii) Reimbursements of actual net losses incurred from manufacturers to operators may be given through a credit memo to a distributor or a check to the operator. Adequate supporting documentation for all reimbursements must be retained by the manufacturer.

(4) Commission fees to recover costs for defective punchboards or pull tab series - the commission may assess a fee not to exceed one hundred dollars for each defective punchboard or pull tab series sold to operators for which a quality control report is completed. In addition, this fee shall not be assessed beyond the fifth series of a particular form number with the same defect.

**AMENDATORY SECTION** (Amending WSR 97-14-012, filed 6/20/97, effective 7/21/97)

**WAC 230-30-040 Bonus pull tab series—Definitions—Restrictions.** For purposes of this title, the following definition and requirements apply to bonus pull tab series:

(1) Bonus pull tab series definition - A pull tab series that includes a predetermined number of pull tabs which allow a player the opportunity to advance to a bonus section to determine the prize.

*What are the requirements of bonus pull tab games?*

(2) Bonus pull tab series must comply with the following:

(a) Each flare shall clearly set out the following:

(i) All prizes available, in accordance with WAC 230-30-106;

(ii) The number of chances available to advance and win a larger prize; and

(iii) The number of winning tabs at each prize level;

(b) Only guaranteed or minimum prizes may be used in calculating the sixty percent payout required by WAC 230-30-080.

(c) The following are prohibited for use with bonus pull tab series:

(i) Substitute flares;

(ii) Merchandise prizes; and

(iii) "Last sale" prizes.

**AMENDATORY SECTION** (Amending WSR 97-19-083, filed 9/16/97, effective 1/1/98)

**WAC 230-30-045 Pull tab series with carry-over jackpots—Definitions—Requirements.** Operators may utilize pull tab series that are specifically designed to include carry-over jackpots. The following definitions and requirements shall apply to these series:

*What definitions apply?*

(1) Definitions which apply to pull tab series with carry-over jackpots:

(a) "Carry-over jackpot" means a prize pool that is composed of accumulated contribution amounts from pull tab series which, if not won, are carried over to other pull tab series;

(b) "Contribution amount" means the amount from each series which is added to the carry-over jackpot; and

(c) "Guaranteed prizes" means all prizes available to be won, excluding the contribution amount or carry-over jackpot;

*What are the requirements that apply to prizes and prize payout calculations?*

(2) The following requirements apply to carry-over jackpot prizes and prize payout calculations:

(a) Guaranteed prizes must be 60% or more of gross receipts available from the pull tab series;

(b) The contribution amount for each series may not be more than five hundred dollars;

(c) The contribution amount and the method of play shall be determined by the manufacturer and disclosed on the flare;

(d) At no time shall an accumulated carry-over jackpot exceed two thousand dollars. Once it reaches this amount, the two thousand dollars accumulated carry-over jackpot shall be carried over to subsequent series until won; and

(e) The carry-over jackpot must be awarded. Failure to have sufficient funds available, or any attempt by an operator to utilize carry-over jackpots for personal or organizational purposes, shall be *prima facie* evidence of defrauding the players in violation of RCW 9.46.190;

(f) If the jackpot is awarded, the sum of the advance-level prize and the jackpot prize shall not exceed two thousand dollars. If the jackpot is not awarded, the sum of the advance-level prize and the consolation prize shall not exceed five hundred dollars.

*What additional requirements apply?*

(3) The following additional requirements apply to pull tab series with carry-over jackpots:

(a) If bonus pull tab series are used:

(i) The odds of winning the carry-over jackpot shall not exceed one winner out of ten chances, or the probability of winning the carry-over jackpot shall be .10 or higher, at the jackpot level;

(ii) There may only be one advance level on the flare;

(iii) There shall be at least one guaranteed chance to win the carry-over jackpot;

(iv) All chances that are included on the flare shall be covered in a manner that prevents determination of the concealed numbers or symbols prior to being opened by the player. If perforated windows are used, the numbers or symbols must be covered by latex, foil, or other approved means; and

(v) Standards for bonus pull tab flares, as set forth in WAC 230-30-106, shall apply;

(b) The maximum ticket count for pull tab series with carry-over jackpots shall be six thousand tickets; and

(c) The secondary win codes on pull tab series with carry-over jackpots must not repeat within a three-year period;

*What operating and recordkeeping requirements apply?*

(4) The following operating and recordkeeping requirements apply to pull tab series with carry-over jackpots:

(a) If the chances of winning the carry-over jackpot are obtained and the carry-over jackpot is not won, the series shall be removed from play within seven operating days;

(b) If a carry-over jackpot is not won prior to removing a series from play, it shall be carried over to a new series within one operating day from when the series was removed from play. The accrued contribution amounts from all previous series shall be added to the contribution amount from the new series, up to two thousand dollars;

(c) The following additional records must be maintained for pull tab series with carry-over jackpots:

(i) For carry-over jackpots six hundred dollars and over, the winner's full name, address, and Social Security number shall be recorded on a separate form for income tax purposes;

(ii) Each pull tab series contributing to a specific carry-over jackpot must be retained as one series. The retention period for these series shall be as required by WAC 230-30-072(3): *Provided*, That the retention period shall start on the last day of the month in which the carry-over jackpot was awarded rather than when the series was removed from play; and

(iii) Operators are required to maintain a separate record documenting the flow of carry-over jackpots from one game to another in a format prescribed by the commission; and

*What aspects of games must be approved prior to sale?*

(5) The director shall approve the following aspects of all pull tab games with carry-over jackpots prior to sale in Washington state:

(a) The design, payout, method of play, and flare for each pull tab series;

(b) The manufacturing process for the pull tab series and flares; and

(c) The secondary win code system for the pull tab series.

~~((6) The fee charged for identification and inspection services stamps shall be set at one dollar for pull tab series with carry-over jackpots.))~~

**AMENDATORY SECTION** (Amending WSR 97-14-012, filed 6/20/97, effective 7/21/97)

**WAC 230-30-070 Control of prizes—Restrictions—Bonus Prizes—Displaying—Procedures for awarding.** Punchboard and pull tab prizes shall be closely controlled to ensure players are not defrauded.

*What may be awarded as a punchboard or pull tab prize?*

(1) All prizes from the operation of punchboards and pull tabs shall be awarded in cash or in merchandise.

~~((a))~~ No licensee shall offer to pay cash in lieu of merchandise prizes which may be won.

~~((b) For purposes of this rule, the retail value of a merchandise prize shall be the amount actually paid by the licensed operator plus 50 percent of that actual cost.))~~

(2) Additional chances on a punchboard or pull tab game may not be awarded as a prize. *Provided*, That prizes may involve the opportunity to advance and win a larger prize on the same punchboard or pull tab game as set forth in subsection (4) of this section.

*What is a bonus prize?*

(3) A bonus prize is a prize offered in a bonus pull tab game, defined in WAC 230-30-040(1). A step-up prize is a prize offered on a punchboard. The awarding of these prizes involves an immediate, additional opportunity to advance to a section of the game to determine the prize.

*What additional requirements apply to the offering of bonus or step-up prizes?*

(4) On games where players advance, the bonus or step-up prizes may not be less than the highest prize available, which might otherwise have been won by the punch or pull tab for which the opportunity was awarded. Each punchboard or pull tab game offering bonus or step-up prizes must clearly indicate on its flare the terms and conditions under which the bonus or step-up prize may be won, including the amount of the bonus or step-up prize.

*How must prizes be displayed?*

(5) The licensee shall display prizes so that a customer can easily determine which prizes are available from any particular punchboard or pull tab series or device operated or located upon the premises. In addition, the following requirements apply.

(a) Merchandise prizes shall be displayed as follows:

(i) In the immediate vicinity of the punchboard or pull tab series and in plain view;

(ii) If size or space constraints do not allow the prize to be displayed as provided in (a)(i) of this subsection, the merchandise prize may be displayed elsewhere on the premises provided that a specific reference to that actual prize is noted on the flare; or

(iii) If the merchandise prize cannot be displayed on the premises, an accurate description and/or photograph of the prize must be displayed in plain view on or immediately adjacent to the flare.

(b) Cash prizes shall be clearly represented on the prize flare;

(c) Combination cash and merchandise prizes must meet the requirements of both (a) and (b) of this subsection;

*What is the procedure for removing prizes from flares and presenting prizes to winning players?*

(6) The following procedures apply to the removal of prizes from the game flare and the presentation of prizes to winning players:

(a) Upon determination of a winner of a merchandise prize, the licensee shall immediately remove that prize from the flare and present the prize to the winner upon demand;

(b) Upon determination of a winner of any cash prize over twenty dollars, or of any merchandise prize with a retail value over twenty dollars, the licensee shall permanently and conspicuously delete all references to that prize from any flare, punchboard, or pull tab dispensing device upon which such reference may appear, and from any other list, sign, or notice which may be posted, in such a manner that all future customers will know the prize is no longer available. On step-up punchboards and bonus pull tab games, once all opportunities in a section of the flare have been won, all references to prizes no longer available to be won must be deleted on the flare. Operators may correct an inadvertently deleted prize by noting on the flare that such prize is still available. Such reference shall be permanently and conspicuously deleted when the prize is actually awarded. Failure to permanently and conspicuously delete a prize from the flare may result in the director initiating actions to revoke a license for violation of RCW 9.46.190 (defrauding a participant). The prize shall be paid or delivered to the winner only after all reference to such prize has been deleted from the flare.

*What must I do if someone buys out a punchboard or pull tab game?*

(7) Payment of prizes. The licensee must pay or award to the customer or player playing the punchboard or pull tab series all such prizes that are required to be, but have not been, deleted from the flare when the punchboard or pull tab series is completely played out.

*What is the procedure for redemption of winning pull tabs or punches?*

~~((8))~~ (8) Record of winners. When any person wins a cash prize of over twenty dollars or wins a merchandise prize with a retail value of more than twenty dollars from the play of any punchboard or pull tab series, the licensee or licensee's representative shall make a record of the win. The record of the win shall be made in the following manner:

(a) The winners shall be required to print their name and date of birth, in ink, upon the side of the winning punch or tab opposite the winning symbol(s);

(b) The licensee or their representative shall then verify the winner's identity and record the date and initial the winning punch or tab; and

(c) If the pull tab or punch is constructed or printed in such a manner as to preclude recording the information required in (a) and (b) of this subsection in a legible manner, the licensee may record the required information on a sheet of paper not less than three inches by five inches and staple the winning tab or punch thereto.

~~((9))~~ (9) Defacing winning punches or tabs. The licensee shall, within twenty-four hours after a winning pull tab or punch ~~((€))~~ worth more than twenty dollars ~~((or more))~~ has been presented for payment, mark or perforate the winning symbols in such a manner that the pull tab or punch cannot be presented again for payment.

*What special operating conditions apply to spindle, banded, or jar type pull tab games which award merchandise prizes only?*

(10) Spindle, banded, or "jar" type pull tabs played in a manner which awards merchandise prizes only. Pull tab series which award only merchandise prizes valued at no more than twenty dollars, are hereby permitted to employ schemes whereby certain predesignated pull tabs are free or the player is otherwise reimbursed the actual cost of said pull tabs. Flares for spindle-type pull tabs operated in this manner shall designate the total number of pull tabs in the series and the total number of pull tabs designated as free or reimbursable. Free or reimbursable pull tabs in these types of pull tab series shall not constitute a prize or prizes nor shall moneys collected and later reimbursed constitute revenue for the purposes of determining gross gambling receipts.

**AMENDATORY SECTION** (Amending WSR 97-14-012, filed 6/20/97, effective 7/21/97)

**WAC 230-30-080 Punchboard and pull tab series restrictions—Prizes, size of game, and location of winners.** No operator, distributor, or manufacturer, or representative thereof shall possess, display, put out for play, sell, or

otherwise transfer to any person in this state, or for use in this state, any punchboard or pull tab series which:

(1) Does not offer prizes that are equal to or greater than sixty percent of the total gross receipts available from the punchboard or pull tab series. The following applies to the sixty percent calculation:

(a) For the purposes of determining the percentage of prizes offered on any punchboard, or in any pull tab series, total merchandise prizes shall be computed at the amount actually paid by the licensed operator plus fifty percent of that actual cost; and

(b) Prize and percentage requirements for progressive pull tab series shall be calculated as set forth in WAC 230-30-025;

(2) Offers a single prize that exceeds:

(a) Five hundred dollars in cash: *Provided*, That progressive jackpot pull tab prizes, as authorized in WAC 230-30-025, and pull tab series with carry-over jackpots, as authorized in WAC 230-30-045 shall be exempt from this requirement and shall be subject to the limits defined in those rules; or

(b) A merchandise prize, or combination cash-merchandise prize, for which the operator has expended more than five hundred dollars;

(3) Has multiple winners on an individual pull tab or punch that combined values exceed the single cash or merchandise prize limit in subsection (2) of this section;

(4) Offers prizes for purchasing the last ticket or last punch that exceeds:

(a) One hundred dollars cash; or

(b) Merchandise for which the licensee has expended more than one hundred dollars; or

(c) The highest prize offered, whichever is less;

(5) Contains more than ten thousand individual pull tabs: *Provided*, That progressive jackpot pull tab series, as authorized by WAC 230-30-025, may contain up to fifty thousand individual pull tabs;

(6) Utilizes a flare which does not meet the requirements of WAC 230-30-106;

(7) The winning punches or tabs have not been randomly distributed and mixed among all other punches or tabs in the board or series;

(8) The location, or approximate location, of any winning punches or tabs can be determined in advance of punching the punchboard or opening the tabs in any manner or by any device, by markings on the board, tabs, or container, or by use of a light;

(9) There exists a key to any winning numbers or symbols; or

(10) Does not conform in any other respect to the requirements of WAC rules as to the manufacture, assembly, or packaging of punchboards or pull tabs.

**AMENDATORY SECTION** (Amending WSR 97-14-012, filed 6/20/97, effective 7/21/97)

**WAC 230-30-106 Punchboard and pull tab flares restrictions—Standards—Substitute flares.** The following restrictions, standards, and procedures apply to the use of flares and substitute flares:

(1) Except as set forth in subsection (6) of this section, the flare advertising prizes available from the operation of any punchboard, or any series of pull tabs (~~(+)~~), shall be made by the manufacturer only and shall not be altered by any operator or distributor;

(2) No person shall place or have out in public view more than one flare advertising the prizes available from the operation of any punchboard, or from any series of pull tabs;

(3) Flares shall be placed as follows:

(a) Only upon the upper face, or on the top of any punchboard; or

(b) In plain view and in the vicinity of any pull tab dispensing device or container. If the flare is not attached to the dispensing device or container, a numerical or alphabetical reference shall be included directly on the flare and dispensing device or container clearly indicating which flare corresponds to which series.

(4) Standards for flares:

(a) Flares must clearly set out each of the prizes available and the numbers or symbols which win each prize. For progressive jackpot series, the progressive jackpot meter board shall be considered a supplement to the flare. Reference to such shall be made on the flare;

(b) Flares must set out the winning numbers or symbols for prizes of over twenty dollars (~~(or more)~~) in cash, or merchandise worth more than twenty dollars (~~(or more)~~) at retail, in such a manner that each may be easily and clearly deleted or marked off as each prize is won and awarded. For the purposes of this subsection the retail value of a merchandise prize shall be the amount actually paid by the licensed operator plus 50 percent of that actual cost;

(c) The cost to the player for each punch or pull tab shall be clearly posted on the flare;

(d) The manufacturer shall clearly set out on the flare the series number assigned to that punchboard or pull tab series by the manufacturer. For pull tab series, this number shall be clearly displayed on the face of the flare. This series number shall not be altered by the distributor or operator;

(e) The flare shall contain the Washington state identification and inspection services stamp number assigned to the board or series, as required by WAC 230-08-017;

(f) For pull tab series, the total number of pull tabs originally in the series shall be clearly disclosed on the face of the flare. Effective July 1, 1997, the following flares shall prominently display the ticket count in one-half inch size lettering on the flare;

(i) Any newly designed flare;

(ii) Any previously designed flare for pull tab series with a ticket count over six thousand, which has not yet been packaged;

(g) Flares must contain the manufacturer of the board or series. A stamp, seal, or label which identifies the manufacturer may be substituted if the commission has been informed of such prior to its use.

(5) Additional standards for bonus pull tab flares:

(a) The manufacturer shall develop and use at least twenty-five different versions of flares (face sheets) for each form number of a bonus series. Flares which contain prizes that are determined after the player receives the corresponding winning chance shall be constructed so that it is impossi-

ble to determine the prizes prior to removing the prize covering, in any manner or by any device. Face sheets shall be utilized in such a manner so as to ensure random distribution during the manufacturing and packing process;

(b) The middle or advance level shall be labeled with the term "ADVANCE SECTION" with a minimum one-quarter inch size lettering;

(c) The top tier level shall be labeled with the term "BONUS SECTION" with a minimum one-quarter inch size lettering;

(d) The number of winners which could be awarded in the top tier level shall be clearly noted on the flare with a minimum three-eighths inch size lettering. In addition, the number of winners and the number of advances in each advance level shall be clearly displayed;

(e) All prizes for each advance and bonus level shall be clearly displayed so that only the winners within the possible combinations are shown. Where applicable, the word "OR" shall be used to illustrate the possible combinations in which the bonus prizes can be won. Duplicate references to prizes shall not be shown on the flare.

(6) Substitute flares:

(a) A substitute flare may be utilized on punchboards or pull tabs, unless otherwise restricted by commission rules, provided all the requirements of this subsection are met.

(i) Distributors may apply manufacturer-produced substitute flares to punchboards and pull tab series;

(ii) Licensed operators or distributors may make and use substitute flares on punchboards and pull tab series which offer merchandise or combination merchandise-cash prizes.

(iii) The responsibility for ensuring the substitute flare meets the requirements set forth in this section shall rest with the manufacturer, distributor, or operator who changes the original flare and attaches the substitute flare.

(b) Substitute flare requirements:

(i) All substitute flares must comply with the requirements of subsections (4) and (5) of this section;

(ii) All substitute flares shall have the Washington state identification and inspection services stamp number and series number assigned to the punchboard or pull tab series permanently recorded in ink on the face of the substitute flare;

(iii) The original manufacturer's flare shall be permanently defaced so it is unusable and the substitute flare shall be attached to the original manufacturer's flare so that the original Washington state identification and inspection services stamp and series number can be accessed for inspection;

(iv) For flares converted from cash prizes to combination merchandise-cash prizes, at least fifty percent of the total value of prizes offered shall be merchandise; and

(v) Substitute flares which offer merchandise, or combination merchandise-cash, must utilize numbers, not symbols, to denote winners. The winning numbers on the substitute flare shall be selected from the winning numbers on the flare made by the manufacturer, or from the optional numbers placed on the back of the board by the manufacturer. Prizes must be assigned to the winning numbers consecutively, starting with the highest value prize being assigned the lowest available winning number.

(7) In addition to prizes established by manufacturers, commercial stimulant licensees may increase prizes or add additional prizes to punchboards or pull tab series if:

(a) Such prizes are cash or merchandise;

(b) The manufacturer's flare shall not be changed;

(c) Full details of the prizes, including requirements to qualify, shall be disclosed to players by means of an additional sign or notice that is permanently attached to the manufacturer's flare;

(d) The increase or additional prizes must be added to every prize that is within a tier or section of the flare; and

(e) Documentation regarding all additional prizes shall be stapled or otherwise permanently attached to the winning punch or pull tab for which such a prize is awarded. Minimum documentation shall include a description of the prize awarded and the name of the winner.

### WSR 98-09-060

#### PROPOSED RULES

#### LIQUOR CONTROL BOARD

[Filed April 17, 1998, 1:32 p.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 98-01-035.

Title of Rule: Delegation of board authority to approve licenses.

Purpose: This rule will allow the board to delegate its authority to approve liquor license applications. This authority will be delegated to select staff persons for uncontested or unopposed licenses.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.24.010(2).

Summary: This will allow selected staff persons to have the authority to approve uncontested or unopposed license applications.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Goyette, P.O. Box 43098, Olympia, WA 98504-3098, phone (360) 753-2724.

Name of Proponent: Washington State Liquor Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Under RCW 66.24.010(2), the board can delegate license approval authority to staff. This proposed rule sets the conditions of that delegation and the conditions include the limits of the authority.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No impact to small businesses.

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

Hearing Location: Washington State Liquor Control Board, Board Room, Fifth Floor, 1025 East Union Avenue, Olympia, WA 98501, on May 27, 1998, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Teresa Berntsen by May 25, 1998, TDD (360) 586-4727 or (360) 586-1641.

Submit Written Comments to: Teresa Berntsen, Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, FAX (360) 664-9689, by May 27, 1998.

Date of Intended Adoption: June 17, 1998.

April 15, 1998  
Nathan S. Ford, Jr.  
Chair

**NEW SECTION**

**WAC 314-12-005 Under what conditions may the board delegate authority to approve liquor licenses as provided in RCW 66.24.010(2)?** 1) The board may delegate to designated staff members, in writing, the authority to approve license applications except as follows:

- a) where local officials, board staff or members of the general public have given the board written notice of opposition or concern, or;
- b) where sensitive alcohol related issues exist within a community or neighborhood, under review by the board, that require more extensive deliberations before a decision is reached.

2) Authority may be delegated to staff the board deems qualified, including the director of licensing and regulation, licensing supervisors and other employees the division director recommends.

3) Designated employees may not further delegate their authority.

**WSR 98-09-061**

**PROPOSED RULES**

**LIQUOR CONTROL BOARD**

[Filed April 17, 1998, 1:35 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 97-13-070.

Title of Rule: Operations and procedures. Revising hours of operation and regular meeting schedule.

Purpose: The board currently meets with staff Tuesdays and Thursdays, and conducts formal board meetings on Wednesdays. In order to better meet the needs of the citizens and more quickly respond to their concerns, the board would like to add Mondays and Fridays as days for additional staff work sessions.

Statutory Authority for Adoption: RCW 66.08.030.

Summary: This will allow the board to add Mondays and Fridays as days for additional staff work sessions. It will also allow the board to have regular meetings (where public testimony is taken, petitions are accepted, and resolutions are adopted) Monday through Friday, so long as the proper legal notice is given.

Name of Agency Personnel Responsible for Drafting and Implementation: Bill Daley, P.O. Box 43080, Olympia, WA 98504-3080, phone (360) 753-6276.

Name of Proponent: Washington State Liquor Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 314-60-040 currently states regular meetings of the board are held on Tuesdays, Wednesdays, and Thursdays. The board meets with staff on Tuesdays and Thursdays, and conducts formal board meetings on Wednesdays. This change would add Mondays and Fridays as days for additional staff work sessions.

The rule also states it is the board's intent to hold its regular meetings on Wednesdays. This revision would allow the board to schedule petitions, take public testimony, and adopt resolutions on any day when a regular meeting may be scheduled, so long as the proper legal notice is given.

The purpose of this change is to better meet the needs of the citizens and more quickly respond to their concerns.

Proposal Changes the Following Existing Rules: This change would add Mondays and Fridays to the days the board can hold staff work sessions. It would also allow the board to hold regular meetings Monday through Friday, so long as the correct legal notice is published.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No impact to small businesses.

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

Hearing Location: Washington State Liquor Control Board, Board Room, Fifth Floor, 1025 East Union Avenue, Olympia, WA 98501, on May 27, 1998, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Teresa Berntsen by May 25, 1998, TDD (360) 586-4727 or (360) 586-1641.

Submit Written Comments to: Teresa Berntsen, Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, FAX (360) 664-9689, by May 27, 1998.

Date of Intended Adoption: June 17, 1998.

April 15, 1998  
Nathan S. Ford, Jr.  
Chair

**REVISED SECTION [AMENDATORY SECTION**  
(Amending WSR 92-14-027, filed 6/22/92)]

**WAC 314-60-040 Operations and procedure.** The general course and method by which the operations of the board are channeled and determined are illustrated by the following:

(1) An organizational chart is available from the board's public records office which illustrates the general structure and composition of the board's operations.

(2) Board procedures relating to hearings involving alleged violations of the liquor act and/or revised rules and regulations of the board are covered in chapter 314-04 WAC and in chapter 314-08 WAC Practice and procedure.

(a) General information pertaining to formal hearings is available from the board's public records office.

PROPOSED

(b) Forms of notice of board action proposing to suspend a liquor license are available from the board's public records office.

(3) Pursuant to the requirements of the Open Public Meetings Act (chapter 42.30 RCW) all determinations and business of the board, except matters which are exempt from the act under RCW 42.30.140, or properly conducted in executive session, pursuant to RCW 42.30.110, will be made and conducted in meetings open to the public. Regular meetings of the board will be on Wednesday at 9:00 a.m. Meetings of the board ((are)) may be held on Monday, Tuesday, ((Wednesday, and)) Thursday, and Friday of each week, except on holidays, beginning at 8:00 a.m. or as soon thereafter as a quorum is assembled. Unless notice is otherwise given, meetings of the board will be held at its offices on the Fifth Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, Washington. For scheduling purposes, it is the board's intent to conduct staff meetings and work sessions at its Tuesday and Thursday meetings, and to schedule petitions, public testimony, and adoption of resolutions at its regular Wednesday meetings, however, so long as proper legal notice is given, the board may accept petitions, take public testimony and adopt resolutions on any day when a regular meeting may be scheduled under this rule. In addition to legal notice published pursuant to RCW 42.30, meeting notices will be published on the Internet at [www.wa.gov/liq](http://www.wa.gov/liq) and information about meeting times and agendas will be available in the board office during regular office hours.

**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 98-09-067

#### PROPOSED RULES

#### DEPARTMENT OF AGRICULTURE

[Filed April 20, 1998, 9:43 a.m.]

Original Notice.

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

Title of Rule: WAC 251-19-154 Return to work initiative.

Purpose: This pertains to the return to work initiative project resolution.

Statutory Authority for Adoption: Chapter 41.06 RCW.  
Statute Being Implemented: RCW 41.06.150.

Summary: This proposal is in conjunction with the resolution of the pilot program to the return to work initiative project. This rule will allow the director of the Department of Personnel or designee to waive appropriate rules to permit higher education classified employees with an on-the-job injury to access the RIF transition pool.

Name of Agency Personnel Responsible for Drafting: Sharon Peck, 521 Capitol Way South, Olympia, WA, (360) 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will allow the director of the Department of Personnel or designee to waive appropriate rules to permit higher education classified employees with an on the job injury to access the RIF transition pool (RTP).

The board adopted a resolution that will allow for a pilot program to the return to work initiative project. The goal of the program is to increase placement opportunities for state employees injured on-the-job, thereby reducing worker's compensation costs. The RTP is currently for general government employees. The rule will allow the director or designee to waive appropriate rules to permit institutions of higher education classified employees to access the RTP.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Pursuant to RCW 34.05.328(6), section 201 does not apply.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on June 11, 1998, at 10:00.

Assistance for Persons with Disabilities: Contact Department of Personnel by June 4, 1998, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Peck, Department of Personnel, P.O. Box 47500, FAX (360) 586-4694, by June 9, 1998.

Date of Intended Adoption: June 11, 1998.

April 16, 1998

Dennis Karras

Secretary

#### NEW SECTION

**WAC 251-19-154 Return to work initiative.** The director of personnel or designee may waive the appropriate rules to implement the return to work initiative project resolution adopted by the board on April 9, 1998.

### WSR 98-09-069

#### PROPOSED RULES

#### COLUMBIA RIVER GORGE COMMISSION

[Filed April 20, 1998, 11:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR [no information supplied by agency].

Title of Rule: 350-11-001 Definitions for 350-11-001 to 350-11-010; 350-11-003 Meetings of Commission to be open to public; 350-11-004 Public notice required; 350-11-006 Executive sessions permitted on certain matters; 350-11-008 Enforcement of 350-11-001 to 350-11-007; 350-11-009



Prima facie evidence of violation required of plaintiff; 350-12-005 Certified copies of public records; 350-12-006 Public records exempt from disclosure; 350-14-006 Ex parte contact; and 350-14-007 Appearance of fairness.

Purpose: To amend 350-11, 350-12 and 350-14 to provide clarification and bring into compliance with state statutes.

Statutory Authority for Adoption: RCW 43.97.015, ORS 196.150, 16 USC 544.

Statute Being Implemented: Chapters 42.52 and 42.36 RCW, RCW 43.17.250-[43.17.]348, 43.97.015, ORS 192.410-505, ORS 192.610-710, ORS 196.150, ORS 244, 16 USC 544.

Summary: The proposed amendments to the commission's administrative rules regarding open meetings, public records, conflict of interest, ex parte contact and appearance of fairness provide clarification and bring the statutes into compliance with state statutes.

Reasons Supporting Proposal: See above.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Lawrence Watters, White Salmon, Washington, (509) 493-3323.

Name of Proponent: Columbia River Gorge Commission, governmental.

Rule is necessary because of federal law, [no information supplied by agency].

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amendments provide clarification and bring the rules into compliance with state statutes.

Proposal Changes the Following Existing Rules: Provides clarification and compliance with state statutes.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendments are not subject to the Regulatory Fairness Act because they clarify existing rules and bring those existing rules into compliance with state statutes. The amendments will not impact businesses.

RCW 34.05.328 does not apply to this rule adoption. The Columbia River Gorge Commission is not a listed agency in RCW 34.05.328.

Hearing Location: Skamania Lodge, Stevenson, Washington, on July 21, 1998, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Jan Brending by July 2, 1998, (509) 493-3323.

Submit Written Comments to: Jan Brending, Rules Coordinator, FAX (509) 493-2229, by July 2, 1998.

Date of Intended Adoption: July 21, 1998.

April 17, 1998

Jan Brending

Rules Coordinator

## AMENDATORY SECTION

### **350-11-001. Definitions for 350-11-001 to 350-11-010.**

(1) "Decision" means any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of the commission is required at any meeting at which a quorum is present.

(2) "Executive session" means any meeting or part of a meeting of the commission which is closed to certain persons for deliberation on certain matters.

(3) "Commission" means the Columbia River Gorge Commission or any ((public body)) committee which consists of two or more members, with the authority to make decisions for or recommendations to the commission on policy or administration.

(4) "Meeting" means the convening of the commission for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter. "Meeting" does not include any onsite inspection of any project or program. "Meeting" also does not include the attendance of members of the commission at any national, regional or state association to which the commission or members of the commission belong.

## AMENDATORY SECTION

**350-11-003. Meetings of commission to be open to public; location of meetings.** (1) All meetings of the commission shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by 350-11-001 to 350-11-010.

(2) No quorum of the commission shall meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as otherwise provided by 350-11-001 to 350-11-010.

(3) The commission shall not hold a meeting at any place where discrimination on the basis of race, creed, color, sex, age or national origin is practiced. However, the fact that organizations with restricted membership hold meetings at the place shall not restrict its use by the commission if use of a place by a restricted membership organization is not the primary purpose of the place or its predominate use.

(4) Meetings of the commission shall be held within the geographic boundaries over which the commission has jurisdiction, or at the administrative headquarters of the commission or at the other nearest practical location. Training sessions may be held outside the jurisdiction so long as no deliberations toward a decision are involved. A joint meeting of two or more governing bodies shall be held within the geographical boundaries over which one of the participating public bodies has jurisdiction or at the nearest practical location. Meetings may be held in locations other than those described in this subsection in the event of an actual emergency necessitating immediate action.

(5) Notwithstanding the requirements of section (4) above, committee meetings may be held in any location where the committee deems it useful.

(6) Meetings of the commission shall be held in locations that are accessible to the disabled.

(7) Upon request of a hearing impaired person, the commission shall make a good faith effort to have an interpreter for hearing impaired persons provided at a regularly scheduled meeting. The person requesting the interpreter shall provide the commission at least 48 hours' notice of the request, shall provide the name of the requester, sign language preference and any other relevant information the commission may require.

(8) Voting by the commission shall take place in public and each member's vote shall be recorded as it is cast.

**AMENDATORY SECTION**

**350-11-004. Public notice required; special notice for executive sessions, special or emergency meetings.** (1) The commission shall provide for and give public notice, reasonably calculated to give actual notice to interested persons including news media which have requested notice, of the time and place for holding regular meetings. The notice shall also include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of the commission to consider additional subjects.

(2) If an executive session only will be held, the notice shall be given to the members of the commission, the general public and to news media which have requested notice, stating the specific provision of law authorizing the executive session.

(3) No special meeting shall be held without at least 24 hours' notice to the members of the commission, the news media which have requested notice and the general public. In case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances, but the minutes for such a meeting shall describe the emergency justifying less than 24 hours' notice.

(4) The commission may adjourn or continue a meeting to a time and place specified in an order of adjournment or continuance. Written notice of the adjournment or continuance shall be provided in accordance with subsection (3) above. A copy of the order of adjournment or continuance shall be conspicuously posted immediately after adjournment or continuance on the door where the meeting was held.

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

**AMENDATORY SECTION**

**350-11-006. Executive sessions permitted on certain matters; procedures; news media representatives' attendance; limits.** (1) The commission can hold executive session during a regular, special or emergency meeting, after the presiding officer has identified the authorization for the holding of such executive session. Executive session may be held:

(a) To consider the employment of a public officer, employee, staff member or individual agent. The exception contained in this paragraph does not apply to:

(A) The filing of a vacancy in an elective office.

(B) The filling of a vacancy on any public committee, commission or other advisory group.

(C) The consideration of general employment policies.

(D) The employment of the chief executive officer, other public officers, employees and staff members of any public body unless the vacancy in that office has been advertised, regularized procedures for hiring have been adopted by the public body and their has been opportunity for public input into the employment of such an officer. However, the standards, criteria and policy directives to be used in hiring chief executive officers shall be adopted by the commission in meetings open to the public in which there has been opportunity for public comment.

(b) To consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, unless such public officer, employee, staff member or individual agent requests an open hearing.

(c) To conduct deliberations with persons designated by the commission to carry on labor negotiations.

(d) To conduct deliberations with persons designated by the commission to negotiate real property transactions.

(e) To consider records that are exempt by law from public inspection.

(f) To consider preliminary negotiations involving matters of trade or commerce in which the commission is in competition with governing bodies in other states or nations.

(g) To consult with counsel concerning the legal rights and duties of the commission with regard to current litigation or litigation likely to be filed.

(h) To review and evaluate, pursuant to standards, criteria and policy directives adopted by the commission, the employment-related performance of the chief executive officer of the commission, a public officer, employee or staff member unless the person whose performance is being reviewed and evaluated requests an open hearing. The standards, criteria and policy directives to be used in evaluating chief executive officers shall be adopted by the commission in meetings open to comment. An executive session for purposes of evaluating a chief executive officer or other officer, employee or staff member shall not include a general evaluation of any agency goal, objective or operation of any directive to personnel concerning agency goals, objectives, operations or programs.

(i) To carry on negotiations with private persons or business regarding proposed acquisition, exchange or liquidation of public investments.

(2) Labor negotiations may be conducted in executive session if either side of the negotiators requests closed meetings. Subsequent sessions of the negotiations may continue without further public notice.

(3) Representatives of the news media shall be allowed to attend executive sessions other than those held under paragraph (c) of subsection (1) of this section relating to labor negotiations but ~~((the commission may require that specified))~~ no information that is the subject of the executive session shall be disclosed.

(4) No executive session may be held for the purpose of taking any final action or making any final decision.

**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.

**AMENDATORY SECTION**

**350-11-008. Enforcement of 350-11-001 to 350-11-007; effect of violation on validity of decision of the commission; liability of members.** (1) Any person affected by a decision of the commission may commence a suit in the circuit court or superior court of the county in which the commission ordinarily meets, for the purpose of requiring compliance with, or the prevention of violations of 350-11-001 to

~~((350-11-008))~~ 350-11-007, by members of the commission, or to determine the applicability of 350-11-001 to ~~((350-11-008))~~ 350-11-007 to matters or decisions of the commission. The court may order such equitable relief as it deems appropriate in the circumstances. A decision shall not be voided if other equitable relief is available. The court may order payment to a successful plaintiff in a suit brought under this section of reasonable attorney's fees at trial and on appeal, by the commission.

(2) If the court makes a finding that a violation of 350-11-001 to ~~((350-11-008))~~ 350-11-007 has occurred under subsection (1) of this section and that the violation is the result of wilful misconduct by any member or members of the commission, that member or members shall be jointly and severally liable to the commission for the amount paid by the commission under subsection (1) of this section.

(3) The provisions of this section shall be the exclusive remedy for an alleged violation of 350-11-001 to ~~((350-11-008))~~ 350-11-007.

#### AMENDATORY SECTION

**350-11-009. Prima facie evidence of violation required of plaintiff.** In any suit commenced under 350-11-008(1), the plaintiff shall be required to present prima facie evidence of a violation of 350-11-001 to ~~((350-11-008))~~ 350-11-007 before the commission shall be required to prove that its acts in deliberating toward a decision complied with the law. When a plaintiff presents prima facie evidence of a violation of the open meeting law, the burden to prove that the provisions of 350-11-001 to ~~((350-11-008))~~ 350-11-007 were complied with shall be on the commission.

#### AMENDATORY SECTION

##### **350-12-005. Certified copies of public records; fees.**

(1) The custodian of any public record which a person has a right to inspect shall give the person, on demand, a certified copy of it, if the record is of a nature permitting such copying, or shall furnish reasonable opportunity to inspect or copy.

(2) ~~((The public body may establish fees reasonably calculated))~~ The Commission will assess a fee of \$0.25 per page to reimburse it for its actual costs in making such records available except for requests from government agencies and the media. This applies to both regular and certified copies of records.

#### AMENDATORY SECTION

##### **350-12-006. Public records exempt from disclosure.**

(1) The following public records are exempt from disclosure under 350-12-001 to 350-12-006 unless the public interest requires disclosure in the particular instance:

(a) Records of the commission pertaining to litigation to which the commission is a party if the complaint has been filed, or if the complaint has not been filed, if the commission shows that such litigation is reasonably likely to occur. This exemption does not apply to litigation which has been concluded, and nothing in this paragraph shall limit any right or

opportunity granted by discovery or deposition statutes to a party to litigation or potential litigation;

(b) Trade secrets. "Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or service or to locate minerals or other substances, having commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it;

(c) Investigatory information compiled for criminal law purposes, except that the record of an arrest or the report of a crime shall not be confidential unless and only so long as there is a clear need in a particular case to delay disclosure in the course of a specific investigation. Nothing in this paragraph shall limit any right constitutionally guaranteed, or granted by statute, to disclosure or discovery in criminal cases. For purpose of this paragraph, the record of an arrest or the report of a crime includes, but is not limited to:

(A) The arrested person's name, age, residence, employment, marital status and similar biographical information;

(B) The offense with which the arrested person is charged;

(C) The conditions of release;

(D) The identity of and biographical information concerning both complaining party and victim;

(E) The identity of the investigation and arresting agency and the length of the investigation;

(F) The circumstances of arrest, including time, place, resistance in apprehending fugitives from justice;

(G) Such information as may be necessary to enlist public assistance in apprehending fugitives from justice;

(d) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the examination is given and if the examination is to be used again;

(e) Information relating to the appraisal of real estate prior to its acquisition;

(f) The names and signatures of employees who sign authorization cards or petitions for the purpose of requesting representation or decertification elections;

(g) Investigatory information relating to any complaint filed relating to unlawful employment practices until such time as the complain is resolved, or a final administrative determination is made;

(h) Investigatory information relating to any complaint filed relating to unfair labor practices;

(i) Information concerning the location of archaeological sites or objects, except if the governing body of an Indian tribe requests the information and the need for the information is related to that Indian tribe's cultural or religious activities. This exemption does not include information relating to a site that is all or part of an existing, commonly known and publicized tourist activity or attraction; and

(j) A personnel discipline action, or materials or documents supporting that action.

(2) The following public records are exempt from disclosure under 350-12-001 to 350-12-006:

(a) Communications within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to any final agency determination of policy or action. This exemption shall not apply unless the commission shows that in the particular instance the public interest in encouraging frank communication between officials and employees of the commission clearly outweighs the public interest in disclosure;

(b) Information of a personal nature such as but not limited to that kept in a personal, medical or similar file, if the public disclosure thereof would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy;

(c) Information submitted to the commission in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the commission has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure;

(d) ~~((Any public records or information the disclosure of which is prohibited by federal law or regulations;))~~ Any public records or information the disclosure of which is prohibited by federal or state law or regulations including, but not limited to, records, reports, documents, maps, photographs, drawings or other material relating to the location of any Indian burial grounds, village sites, other areas of archaeological or religious significance, or related cultural resources;

(e) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged;

(f) Public records or information described in this section, furnished by the public body originally compiling, preparing or receiving them to any other public officer or public body in connection with performance of the duties of the recipient, if the considerations originally giving rise to the confidential or exempt nature of the public records or information remain applicable.

(3) If any public record contains material which is not exempt under subsection (1) or (2) of this section, as well as material which is exempt from disclosure, the commission shall separate the exempt and nonexempt material and make the nonexempt material available for examination.

(4) Student records required by state or federal law are exempt from disclosure.

(5) Disclosure of information in violation of Rule 350-12-006 is grounds for assessment of a civil penalty pursuant to Rule 350-30 et seq.

**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.

## NEW SECTION

**350-14-006. Ex parte contact.** (1) Members of the Commission shall not have ex parte contact with applicants or interested parties seeking a land use permit, or opponents to the permit, while the application or appeal thereto is pending under a land use ordinance for the Scenic Area.

(2) Members of the Commission shall place on the record of the appeal or proceedings under these rules any ex parte contact set forth in subsection (2). The Chair or presiding officer shall notify all parties to the appeal or proceeding. The Chair or presiding officer shall consider the position of the parties and, after review of the matter, make a recommendation to the Commission to ensure the appearance of fairness is maintained. The member of the Commission who was the subject of the ex parte contact may voluntarily step down from hearing the matter. The Commission may, in the alternative, request the member of the Commission step down from hearing the matter.

**Reviser's note:** The unnecessary underscoring 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

**350-14-007. Appearance of fairness.** (1) Members of the Commission shall comply with the appearance of fairness in appeals and proceedings under Rules 350-60 et seq. and Rules 350-70 et seq.

**Reviser's note:** The unnecessary underscoring 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 98-09-084  
PROPOSED RULES  
OFFICE OF  
FINANCIAL MANAGEMENT**

[Filed April 21, 1998, 3:14 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-06-064.

Title of Rule: Setting official pay dates for 1999.

Purpose: To establish official pay dates for state officers and employees for calendar year 1999.

Statutory Authority for Adoption: RCW 42.16.010(1) and 42.16.017.

Statute Being Implemented: RCW 42.16.010(1) and 42.16.017.

Summary: This proposed rule making amends WAC 82-50-021 by establishing pay dates for state officers and employees for calendar year 1999 and removing now obsolete pay dates for calendar year 1997.

Reasons Supporting Proposal: Statute requires that the Office of Financial Management annually update and publish pay dates.

Name of Agency Personnel Responsible for Drafting: Millie Lund, 406 Legion Way S.E., (360) 664-3419; Imple-

PROPOSED

mentation and Enforcement: Wendy Jarrett, 406 Legion Way S.E., (360) 664-3414.

Name of Proponent: Office of Financial Management, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 82-50-021 exists to publish the official lagged, semi-monthly pay dates for state officers and employees. This section of WAC, which provides pay dates for the current and ensuing calendar years, is amended each year to add pay dates for the ensuing calendar year and delete the obsolete pay dates for the previous year.

Proposal Changes the Following Existing Rules: Official lagged, semi-monthly pay dates for calendar year 1999 are added and the now obsolete pay dates for calendar year 1997 are deleted.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This WAC establishes pay dates for state officers and employees, and has no effect on small businesses in the state of Washington. The information provided in this rule may be used by businesses that chose to include state pay dates in calendars that they publish. Any economic impact on those businesses, as an indirect result of publishing these dates, should be positive.

RCW 34.05.328 does not apply to this rule adoption. This amendatory rule-making action is required by statute.

Hearing Location: 3rd Floor Conference Room, 406 Legion Way S.E., Olympia, WA, on May 26, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Vickie Larkin by May 15, 1998, TDD (360) 664-3649, or (360) 664-3372.

Submit Written Comments to: Millie Lund, P.O. Box 43123, Olympia, WA 98504-3123, FAX (360) 664-3423, by May 22, 1998.

Date of Intended Adoption: June 30, 1998.

April 21, 1998

Lynne M. McGuire

Rules Coordinator

AMENDATORY SECTION (Amending WSR 97-13-064, filed 6/17/97, effective 7/18/97)

**WAC 82-50-021 Official lagged, semimonthly pay dates established.** Unless exempted otherwise under the provisions of WAC 82-50-031, the salaries of all state officers and employees are paid on a lagged, semimonthly basis for the official twice-a-month pay periods established in RCW 42.16.010(1). The following are the official lagged, semi-monthly pay dates for calendar years ((1997)) 1998 and ((1998)) 1999:

((CALENDAR YEAR 1997  
Friday, January 10, 1997  
Friday, January 24, 1997  
Monday, February 10, 1997  
Tuesday, February 25, 1997  
Monday, March 10, 1997

CALENDAR YEAR 1998  
Friday, January 9, 1998  
Monday, January 26, 1998  
Tuesday, February 10, 1998  
Wednesday, February 25, 1998  
Tuesday, March 10, 1998

((CALENDAR YEAR 1997  
Tuesday, March 25, 1997  
Thursday, April 10, 1997  
Friday, April 25, 1997  
Friday, May 9, 1997  
Friday, May 23, 1997  
Tuesday, June 10, 1997  
Wednesday, June 25, 1997  
Thursday, July 10, 1997  
Friday, July 25, 1997  
Monday, August 11, 1997  
Monday, August 25, 1997  
Wednesday, September 10, 1997  
Thursday, September 25, 1997  
Friday, October 10, 1997  
Friday, October 24, 1997  
Monday, November 10, 1997  
Tuesday, November 25, 1997  
Wednesday, December 10, 1997  
Wednesday, December 24, 1997

CALENDAR YEAR 1998  
Friday, January 9, 1998  
Monday, January 26, 1998  
Tuesday, February 10, 1998  
Wednesday, February 25, 1998  
Tuesday, March 10, 1998  
Wednesday, March 25, 1998  
Friday, April 10, 1998  
Friday, April 24, 1998  
Monday, May 11, 1998  
Friday, May 22, 1998  
Wednesday, June 10, 1998  
Thursday, June 25, 1998  
Friday, July 10, 1998  
Friday, July 24, 1998  
Monday, August 10, 1998  
Tuesday, August 25, 1998  
Thursday, September 10, 1998  
Friday, September 25, 1998  
Friday, October 9, 1998  
Monday, October 26, 1998  
Tuesday, November 10, 1998  
Wednesday, November 25, 1998  
Thursday, December 10, 1998  
Thursday, December 24, 1998

CALENDAR YEAR 1998  
Wednesday, March 25, 1998  
Friday, April 10, 1998  
Friday, April 24, 1998  
Monday, May 11, 1998  
Friday, May 22, 1998  
Wednesday, June 10, 1998  
Thursday, June 25, 1998  
Friday, July 10, 1998  
Friday, July 24, 1998  
Monday, August 10, 1998  
Tuesday, August 25, 1998  
Thursday, September 10, 1998  
Friday, September 25, 1998  
Friday, October 9, 1998  
Monday, October 26, 1998  
Tuesday, November 10, 1998  
Wednesday, November 25, 1998  
Thursday, December 10, 1998  
Thursday, December 24, 1998))

CALENDAR YEAR 1999  
Monday, January 11, 1999  
Monday, January 25, 1999  
Wednesday, February 10, 1999  
Thursday, February 25, 1999  
Wednesday, March 10, 1999  
Thursday, March 25, 1999  
Friday, April 9, 1999  
Monday, April 26, 1999  
Monday, May 10, 1999  
Tuesday, May 25, 1999  
Thursday, June 10, 1999  
Friday, June 25, 1999  
Friday, July 9, 1999  
Monday, July 26, 1999  
Tuesday, August 10, 1999  
Wednesday, August 25, 1999  
Friday, September 10, 1999  
Friday, September 24, 1999  
Friday, October 8, 1999  
Monday, October 25, 1999  
Wednesday, November 10, 1999  
Wednesday, November 24, 1999  
Friday, December 10, 1999  
Thursday, December 23, 1999

WSR 98-09-086

PROPOSED RULES

DEPARTMENT OF  
FISH AND WILDLIFE

[Filed April 21, 1998, 3:20 p.m.]

Original Notice.

PROPOSED

Preproposal statement of inquiry was filed as WSR 98-06-065.

Title of Rule: Possession limits—Bottomfish.

Purpose: To modify minimum size limit for lingcod from twenty-two inches to twenty-four inches in Catch Areas 1 through 4 and remove redundant language from rule text.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Increases minimum size of sport caught lingcod in Marine Catch Reporting Areas 1 through 4.

Reasons Supporting Proposal: This proposal complements regulatory activity by the Pacific Fishery Management Council and has the intent of decreasing wastage and increasing stock health.

Name of Agency Personnel Responsible for Drafting: Morris Barker, 1111 Washington Street, Olympia, WA, (360) 902-2826; Implementation: Bruce Crawford, 1111 Washington Street, Olympia, WA, (360) 902-2325; and Enforcement: Ron Swatfigure, 1111 Washington Street, Olympia, WA, (360) 902-2927.

Name of Proponent: Washington Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal (WAC 220-56-235) will increase the minimum size of sport caught lingcod from twenty-two inches to twenty-four inches. The purpose is to compliment the regulatory action taken by the Pacific Fishery Management Council within state waters. The anticipated effects will be to reduce wastage and increase the stock health by reducing fishing induced mortality. Also performs a house-keeping measure by removing redundant text.

Proposal Changes the Following Existing Rules: Changes minimum size of sport caught lingcod from twenty-two inches to twenty-four inches.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal does not affect any commercial fishery or supporting business.

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

Hearing Location: Doubletree Hotel, Port Angeles, Washington, on June 13, 1998, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Robin Ayres by May 26, 1998, TDD (360) 902-2295, or (360) 902-2933.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way North, Olympia, WA, FAX (360) 902-2940, by June 11, 1998.

Date of Intended Adoption: June 13, 1998.

April 21, 1998

Evan Jacoby  
Rules Coordinator

AMENDATORY SECTION (Amending Order 97-53, filed 3/19/97, effective 5/1/97)

**WAC 220-56-235 Possession limits—Bottomfish.** It is unlawful for any person to take in any day more than the fol-

lowing quantities of bottomfish for personal use. The possession limit at any time shall not exceed the equivalent of two daily limits in fresh, frozen or processed form. Unless otherwise provided bottomfish fishing is open the entire year.

(1) Coastal (Catch Record Card Areas 1 through 4):

(a) Lingcod:

(i) 3 fish minimum length ((22)) 24 inches in Catch Record Card Areas 1 through 3 and Area 4 west of the Bonilla-Tatoosh line;

(ii) 2 fish minimum length ((22)) 24 inches in Catch Record Card Area 4 east of the Bonilla-Tatoosh line.

(b) Rockfish - 10 fish.

(c) Surfperch (excluding shiner perch) - 15 fish.

(d) Wolfeel - 2 fish east of the Bonilla-Tatoosh line.

(e) Cabezon - 2 fish east of the Bonilla-Tatoosh line.

(f) All other species - no limit.

(2) Inner Puget Sound (Catch Record Card Areas 5 through 13):

(a) Catch Record Card Areas 5 and 6 - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than:

Rockfish	5 fish
Surfperch	10 fish
Pacific cod	2 fish
Pollock	2 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	2 fish
Cabezon	2 fish

(b) Catch Record Card Area 7 - 15 fish in the aggregate of all species of bottomfish, which may include no more than:

Rockfish	5 fish
Surfperch	10 fish
Pacific cod	2 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	2 fish
Pollock	2 fish

(c) Catch Record Card Areas 8-1 through 13 - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than:

Rockfish	3 fish
Surfperch	10 fish
Pacific cod	0 fish
Pollock	0 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	2 fish

(d) It is unlawful to possess lingcod taken by angling less than 26 inches in length or greater than 40 inches in length.

(e) The daily limit taken by spear fishing may include no more than one lingcod. There is no size restriction on the one lingcod allowed in the daily limit if taken by spear fishing.

(f) ~~((It is unlawful to use a gaff to land lingcod taken in Catch Record Card Areas 5 through 13.~~

(g)) It is unlawful to retain cabezon taken from Catch Record Card Areas 5 through 13 from December 1 through April 30.

**WSR 98-09-087**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 [Filed April 21, 1998, 3:21 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-06-065.

Title of Rule: Beam trawl and otter trawl logbooks.

Purpose: To require the keeping of trawl logbooks in Marine Fish and Shellfish Catch and Management Reporting Area 29.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Logbooks will be required for beam and otter trawler operators fishing in Area 29.

Reasons Supporting Proposal: Housekeeping proposal will mirror logbook requirements for all other Puget Sound catch areas where these fisheries operate so that specific area data can be captured to help meet conservation and management objectives.

Name of Agency Personnel Responsible for Drafting: Morris Barker, 1111 Washington Street, Olympia, WA, (360) 902-2826; Implementation: Bruce Crawford, 1111 Washington Street, Olympia, WA, (360) 902-2325; and Enforcement: Ron Swatfigure, 1111 Washington Street, Olympia, WA, (360) 902-2927.

Name of Proponent: Washington Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule proposal (WAC 220-48-013) will require the keeping and maintenance of logbooks for all beam trawl and otter trawl operators in Area 29. Logbooks provide discrete data that cannot be captured on fish landing tickets. The data gathered is used to fine tune fishery planning objectives to meet conservation and management goals. Anticipated effects to the fishers will be negligible as this was already a requirement until recently when regulatory oversight dropped the requirement from the current regulations.

Proposal Changes the Following Existing Rules: See Small Business Economic Impact Statement below.

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

Small Business Economic Impact Statement

Commercial Rules re: Beam Trawl and Otter Trawl Logbooks: WAC 220-48-013.

1. Description of Reporting, Recordkeeping and Other Compliance Requirements by the Proposed Rule: Fishers using beam or otter trawl in Marine Fish and Shellfish Catch and Management Reporting Area 29 will be required to keep and maintain a logbook and submit such logbooks upon request to authorized Washington Department of Fish and Wildlife personnel. Monthly reports of the completed logbook information are required to be submitted to the department by the fisher in any calendar month fished within ten days of the end of that calendar month. Fishing operators are required to fill in pertinent identifying information for each fishing trip and for each tow specific information on date, location, duration, depth, net type, target species and estimated weight of each species type retained.

2. Kinds of Professional Services that a Small Business is Likely to Need in Order to Comply with Such Requirements: None, blank logbook forms are provided to the operator by the department.

3. Costs of Compliance for Businesses, Including Cost of Equipment, Supplies, Labor, and Increased Administrative Costs: None, logbooks are already required of these gears in all other operating areas of Puget Sound and no fisher operates exclusively in this area. Until recently all operators were already required to keep and maintain logbooks in this area.

4. Will Compliance with the Rule Cost [Cause] Businesses to Lose Sales or Revenue? No, this rule does not affect any sales or revenue.

5. Cost of Compliance for the Ten Percent of Businesses that are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs: a. Cost per employee; b. Cost per hour of labor; or c. Cost per one hundred dollars of sales. As there are no costs there are no comparisons.

6. Steps Taken by Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing so: None, there are no costs to small businesses.

7. A Description of How the Agency will Involve Small Businesses in the Development of the Rule: The department held a public workshop with target user groups on Saturday, March 21, 1998.

8. A List of Industries that will be Required to Comply with the Rule: Puget Sound shrimp beam trawlers and groundfish otter trawlers.

A copy of the statement may be obtained by writing to Evan Jacoby, 1111 Washington Street, Olympia, WA, phone (360) 902-2930, or FAX (360) 902-2940.

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

Hearing Location: Doubletree Hotel, Port Angeles, Washington, on June 13, 1998, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Robin Ayres by May 26, 1998, TDD (360) 902-2295, or (360) 902-2933.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way North, Olympia, WA, FAX (360) 902-2940, by June 11, 1998.

PROPOSED

Date of Intended Adoption: June 13, 1998.

April 21, 1998

Evan Jacoby

Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 98-05-043, filed 2/11/98, effective 3/14/98)

**WAC 220-48-013 Beam trawl and otter trawl log-books.** It shall be unlawful for any operator of beam trawl or otter trawl gears to fail to obtain and accurately maintain a "Washington Inside Waters Trawl Logbook" while fishing for, or while in possession of, bottomfish taken from east of the ~~((mouth of the Sekiu River))~~ **Bonilla-Tatoosh line.** A logbook must be obtained from the Washington department of fisheries and must be kept aboard the vessel while fishing, or in possession of bottomfish taken east of the mouth of the Sekiu River. The vessel operator must submit the completed logbook for inspection immediately upon request by authorized department of fisheries representatives. For each fishing trip, and prior to landing, vessel operators shall record the vessel name and state registration number, the dates and times of departure from and return to port, and the buyer(s) of the fish landed. In addition, for each trawl tow conducted during the trip, the vessel operator shall record the month and day, duration of the tow, specific area fished, latitude and longitude to the nearest tenth minute of the gear set and haul back position, depth fished, net type, target species and estimated weight of each species of fish retained. The department copies of the completed logbook sheet(s) must be submitted to the department for each calendar month in which fishing activity occurs. Department copies must be received within ten days following any calendar month in which fishing activity occurred and by the tenth day following the termination of commercial fishing activity, whichever occurs first.

**WSR 98-09-088  
PROPOSED RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**  
[Filed April 21, 1998, 3:22 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 98-06-065.

**Title of Rule:** Emerging commercial fishery—Puget Sound shrimp experimental fishery permits—Nontransferability—Primary operator participation requirements—Single alternate operator—Medical exceptions.

**Purpose:** To modify rule to meet original intent of promoting an owner/operator fishing business and reduce the incidence of leasing arrangements to nonpermitted participants.

**Statutory Authority for Adoption:** RCW 75.08.080 and 75.30.220.

**Statute Being Implemented:** RCW 75.08.080 and 75.30.220.

**Summary:** Requires permit holder to be the vessel operator except in cases of medical reasons as documented by physician's statement, including statement of condition and expected date of recovery.

**Reasons Supporting Proposal:** RCW requires permits issued to be nontransferable. This proposal removes loophole that is allowing a defacto transfer to occur.

**Name of Agency Personnel Responsible for Drafting:** Morris Barker, 1111 Washington Street, Olympia, WA, (360) 902-2826; **Implementation:** Bruce Crawford, 1111 Washington Street, Olympia, WA, (360) 902-2325; and **Enforcement:** Ron Swatfigure, 1111 Washington Street, Olympia, WA, (360) 902-2927.

**Name of Proponent:** Washington Department of Fish and Wildlife, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** This proposal (WAC 220-88A-050) will require the permit holder to be the vessel operator except in the case of a bona fide medical circumstance. The purpose of the rule is to close a loophole that is allowing some abuse of the RCW requiring nontransferability of permits. The anticipated effects will result in approximately two fishers (less than 10% of permit holders) being required to fish their own vessel. This also has the potential to reduce some pot effort when the alternate operator's financial incentive is removed from the equation.

**Proposal Changes the Following Existing Rules:** See Small Business Economic Impact Statement below.

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

**Small Business Economic Impact Statement**

Emerging commercial fishery—Puget Sound shrimp experimental fishery permits—Nontransferability—Primary operator participation requirement—Single alternate operator—Medical exception, WAC 220-88A-050.

1. **Description of Reporting, Recordkeeping and Other Compliance Requirements by the Proposed Rule:** There are no reporting or recordkeeping requirements with this proposal. The only record required is a letter from a physician in case an alternate operator is needed.

2. **Kinds of Professional Services that a Small Business is Likely to Need in Order to Comply with Such Requirements:** None, unless a medical condition exists and the fisher wants an alternate operator to operate the vessel - in that circumstance a letter from the applicant's physician is required.

3. **Costs of Compliance for Businesses, Including Cost of Equipment, Supplies, Labor, and Increased Administrative Costs:** The cost of compliance will be any extra fee the attending physician may charge, over and above normal medical charges, for providing the required letter to qualify a permit holder for an alternate operator authorization. Costs should not be expected to exceed \$50 in any circumstance.

4. **Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue?** No, not unless a permit holder is unable to fish their vessel because of circumstances other

PROPOSED



than medical reasons. Compliance can have the effect of increasing gross income due to reduced labor.

5. Cost of Compliance for the Ten Percent of Businesses that are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs: a. Cost per employee; b. Cost per hour of labor; or c. Cost per one hundred dollars of sales. As no business is substantially affected there is no comparison.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing so: None, there are no costs of substance to small businesses.

7. A Description of How the Agency will Involve Small Business in the Development of the Rule: The department held public workshops in late 1997 and early 1998 with target user groups. At the request of the majority of the Puget Sound shrimp fishing industry, the agency agreed to promulgate this rule proposal.

8. A List of Industries that will be Required to Comply with the Rule: The Puget Sound shrimp trawl and shrimp pot fishers.

A copy of the statement may be obtained by writing to Evan Jacoby, 1111 Washington Street, Olympia, WA, phone (360) 902-2930, or FAX (360) 902-2940.

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

Hearing Location: Doubletree Hotel, Port Angeles, Washington, on June 13, 1998, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Robin Ayres by May 26, 1998, TDD (360) 902-2295, or (360) 902-2933.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way North, Olympia, WA, FAX (360) 902-2940, by June 11, 1998.

Date of Intended Adoption: June 13, 1998.

April 21, 1998

Evan Jacoby  
Rules Coordinator

**AMENDATORY SECTION** (Amending Order 94-14, filed 3/17/94, effective 4/17/94)

**WAC 220-88A-050 Emerging commercial fishery—Puget Sound shrimp experimental fishery permits—Non-transferability—Primary operator participation requirement—Single alternate operator—Medical exception.** Puget Sound shrimp pot experimental fishery permits and Puget Sound shrimp trawl experimental fishery permits are nontransferable. The following conditions apply to issuance and use of these permits:

(1) A permit will only be issued to an individual who is a natural person, and this person shall be the primary operator. ~~((The primary operator is required to operate the gear more than one-half of the season and make at least one-half of the landings, as established by valid fish receiving tickets.))~~

(2) Holders of Puget Sound shrimp pot experimental fishery permits and Puget Sound shrimp trawl experimental fishery permits may designate a single alternate operator per

permit. The alternate operator may operate the gear ~~((up to but not equaling one-half of the fishing effort of the vessel per season, and may make up to but not equaling one-half of the landings, as established by valid fish receiving tickets, except that the director may allow operation of the gear and sale of the shrimp by an alternate operator in excess of one-half of the fishing effort))~~ in the case of a bona fide medical emergency for which the primary operator has presented a physician's statement which includes the medical condition and expected date of recovery of the primary operator. ~~((Notification of the medical emergency, presentation of the physician's statement, and obtaining a waiver from the director must be accomplished prior to the end of the season for which the emerging commercial fishery license and experimental fishery permit holder is seeking exception from the seasonal requirement that the primary operator perform more than one-half of the fishing effort.))~~

**WSR 98-09-089**

**PROPOSED RULES**

**DEPARTMENT OF**

**FISH AND WILDLIFE**

[Filed April 21, 1998, 3:23 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-06-065.

Title of Rule: Definitions; General provisions—Lawful and unlawful acts—Salmon, other food fish and shellfish; lawful and unlawful acts—Salmon; General provisions—Lawful and unlawful acts—Food fish other than salmon; and General provisions—Shellfish.

Purpose: To create definitions for Sund Rock Marine Preserve Area and the Bonilla-Tatoosh Line and reference the closure of the conservation areas and marine preserve areas in the appropriate chapters.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Defines Sund Rock Marine Preserve and the Bonilla-Tatoosh Line and references them to the appropriate chapters to ensure compliance of boundaries descriptions to meet conservation and management objectives.

Reasons Supporting Proposal: Proposals will promote resource conservation, promote a nonconsumptive use of the resource as desired by the public and provide for a common recreational and commercial fishing boundary at the western end of the Strait of Juan de Fuca.

Name of Agency Personnel Responsible for Drafting: Morris Barker, 1111 Washington Street, Olympia, WA, (360) 902-2826; Implementation: Bruce Crawford, 1111 Washington Street, Olympia, WA, (360) 902-2325; and Enforcement: Ron Swatfigure, 1111 Washington Street, Olympia, WA, (360) 902-2927.

Name of Proponent: Washington State Department of Fish and Wildlife, governmental.

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

PROPOSED

Explanation of Rule, its Purpose, and Anticipated Effects: The Sund Rock Marine Preserve Area regulation was adopted through a public hearing process but not incorporated into the commercial regulation chapters except by emergency action. This inclusion by definition (WAC 220-16-480) will correct that oversight and make whole the public expectations for recreational and commercial fishery intent for this area. The results will be an area for nonconsumptive use for those that utilize the area for the watching of aquatic life and will further promote the local preservation and restoration of aquatic species.

The definition for the Bonilla-Tatoosh Line (WAC 220-16-490) was previously adopted into the recreational chapter and was not captured in the appropriate commercial chapters. This inclusion by definition will correct that oversight and provide a common area boundary for both commercial and recreational fisheries. Various references to these closures are included under general provisions in WAC 220-20-010, 220-20-015, 220-20-020, and 220-20-025.

Proposal Changes the Following Existing Rules: See Small Business Economic Impact Statement below.

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

#### Small Business Economic Impact Statement

Definitions: WAC 220-16-480 and 220-16-490.

General Provisions: WAC 220-20-010, 220-20-015, 220-20-020, and 220-20-025.

1. Description of Reporting, Recordkeeping and Other Compliance Requirements by the Proposed Rule: There are no reporting or recordkeeping requirements with these proposals. The only requirement is to observe boundary designations and their intent.

2. Kinds of Professional Services that A Small Business is Likely to Need in Order to Comply with Such Requirements: None.

3. Costs of Compliance, Including Cost of Equipment, Supplies, Labor, and Increased Administrative Costs: None, all fishing areas have boundaries and these new definitions will not add any additional fiscal burden.

4. Will Compliance with the Rule Cost Businesses to Lose Sales or Revenue? Fishing area restrictions created by the new boundaries will have minimum impacts to business as fishing businesses do not currently operate in the area impacted.

5. Cost of Compliance for the Ten Percent of Businesses that are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs: a. Cost per employee; b. Cost per hour of labor; or c. Cost per one hundred dollars of sales. As no business is affected there is no comparison to be made.

6. Steps Taken by Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing so: None, there are no costs to small businesses.

7. A Description of How the Agency will Involve Small Businesses in the Development of the Rule: The department held a public workshop with target user groups on Saturday, March 21, 1998.

8. A List of Industries Required to Comply with the Rule: The Puget Sound salmon net fishers, trawlers and fishers using set line gear and, drag seine gear, and pot gear, as well as commercial dive fishers for sea urchins, sea cucumbers and geoducks.

A copy of the statement may be obtained by writing to Evan Jacoby, 1111 Washington Street, Olympia, WA, phone (360) 902-2930, or FAX (360) 902-2940.

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

Hearing Location: Doubletree Hotel, Port Angeles, Washington, on June 13, 1998, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Robin Ayres by May 26, 1998, TDD (360) 902-2295, or (360) 902-2933.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way North, Olympia, WA, FAX (360) 902-2940, by June 11, 1998.

Date of Intended Adoption: June 13, 1998.

April 21, 1998

Evan Jacoby

Rules Coordinator

#### NEW SECTION

**WAC 220-16-480 Sund Rock Marine Preserve Area.** The "Sund Rock Marine Preserve Area" is defined as those waters and bed lands within 200 yards of the salmon net pens located near Sund Rock in Hood Canal.

#### NEW SECTION

**WAC 220-16-490 Bonilla-Tatoosh Line.** The "Bonilla-Tatoosh Line" is defined as a line projected from the most westerly point on Cape Flattery to the lighthouse on Tatoosh Island, then to the buoy adjacent to Duntz Rock, then to Bonilla Point on Vancouver Island.

AMENDATORY SECTION (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

**WAC 220-20-010 General provisions—Lawful and unlawful acts—Salmon, other food fish and shellfish.** (1) It shall be unlawful to take, fish for, possess or transport for any purpose food fish, shellfish or parts thereof, in or from any of the waters or land over which the state of Washington has jurisdiction, or from the waters of the Pacific Ocean, except at the times, places and in the manners and for the species, quantities, sizes or sexes provided for in the regulations of the department of fisheries.

(2) It shall be unlawful for any person to have in possession or under control or custody any food fish or shellfish within the land or water boundaries of the state of Washington, except in those areas which are open to commercial fishing or wherein the possession, control or custody of salmon or other food fish or shellfish for commercial purposes is made lawful under a statute of the state of Washington or the rules and regulations of the director of fisheries, unless otherwise provided.

(3) It shall be lawful to fish for, possess, process and otherwise deal in food fish and fish offal or scrap for any purpose, provided; that it shall be unlawful to use any of the following listed species for purposes other than human consumption or fishing bait:

Pacific halibut	( <i>Hippoglossus stenolepis</i> )
Pacific herring (except as prescribed in WAC 220-49-020)	( <i>Clupea harengus pallasii</i> )
Salmon	
Chinook	( <i>Oncorhynchus tshawytscha</i> )
Coho	( <i>Oncorhynchus kisutch</i> )
Chum	( <i>Oncorhynchus keta</i> )
Pink	( <i>Oncorhynchus gorbuscha</i> )
Sockeye	( <i>Oncorhynchus nerka</i> )
Masu	( <i>Oncorhynchus masu</i> )

(4) It shall be unlawful for any person to fish for food fish or shellfish while in possession in the field of food fish or shellfish that are in violation of the harvest regulations for the area being fished. This regulation does not apply to vessels in transit.

(5) It shall be unlawful for the owner or operator of any commercial food fish or shellfish gear to leave such gear unattended in waters of the state or offshore waters unless said gear is marked with a buoy to which shall be affixed in a visible and legible manner the department of fisheries approved and registered buoy brand issued to the license, provided that:

(a) Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

(b) When two or more shellfish pots are attached to a common ground line the number of pots so attached must be clearly labeled on the required buoy.

(c) It shall be unlawful at any time to leave a gill net unattended in the commercial salmon fishery.

(6) It shall be unlawful to place any commercial food fish or shellfish gear in any waters closed to commercial fishing, provided; that this provision shall not apply to reef nets or brush weirs or to gear being tested under supervision of the department of fisheries, provided further that it shall be unlawful to take, fish for or possess food fish with any type of commercial fishing gear in the waters of Carr Inlet north of north latitude 47° 20' from August 15 through November 30 except as provided in chapter 220-47 WAC.

(7) It shall be unlawful for the owner or operator of any fishing gear to refuse to submit such gear to inspection in any manner specified by authorized representatives of the department of fisheries.

(8) It shall be unlawful for any person taking or possessing food fish or shellfish taken from any of the waters or beaches of the Columbia River, the state of Washington or the Pacific Ocean for any purpose to fail to submit such food fish or shellfish for inspection by authorized representatives of the department of fisheries.

(9) It shall be unlawful for any person licensed under the fisheries code of Washington to fail to make or return any report required by the department of fisheries relative to the taking, selling, possessing, transporting, processing, freezing and storing of food fish or shellfish whether taken within the jurisdiction of the state of Washington or beyond or on Indian reservations or usual and accustomed Indian fishing grounds.

(10) It shall be unlawful to take, fish for or possess or to injure, kill or molest fish in any fishway, fish ladder, fish screen, holding pond, rearing pond, or other fish protective device, or to interfere in any manner with the proper operation of such fish protective devices.

(11) It shall be unlawful to club, gaff, shoot, snag, snare, dip net, harass, spear, stone or otherwise molest, injure, kill or destroy any food fish or shellfish or parts thereof, or for any person to attempt to commit such acts, or to have any fish, shellfish or parts thereof so taken in possession, except as provided for in this subsection:

(a) It shall be lawful to use a dip net or club in the landing of food fish taken by personal-use angling unless otherwise provided and it shall be lawful to use a gaff in the landing of tuna, halibut and dogfish in all catch record card areas.

(b) It shall be lawful to use a dip net, gaff, or club in the landing of food fish or shellfish taken for commercial purposes, except that it is unlawful to use a fish pew, pitchfork, or any other instrument that will penetrate the body of the food fish or shellfish while sorting commercial catches during the act of discarding those fish that are not going to be retained.

(c) It shall be lawful to use a spear in underwater spear fishing as provided for in WAC 220-56-160.

(d) It shall be lawful to use a spear to take carp as provided for in WAC 220-56-280.

(e) It shall be lawful to snag herring, smelt, anchovies, pilchard, sand lance, and squid when using forage fish jigger gear or squid jigs.

(f) It shall be lawful to shoot halibut when landing them with a dip net or gaff.

(12) It shall be unlawful to take or possess for any purpose any food fish or shellfish smaller than the lawful minimum size limits. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish and it shall be unlawful to allow undersized salmon entangled in commercial nets to pass through a power block or onto a power reel or drum.

(13) It shall be unlawful to possess aboard any vessel engaged in commercial fishing or having commercially caught fish aboard, any food fish or shellfish in such condition that its species, length, weight or sex cannot be determined if a species, length, weight, or sex limit is prescribed for said species and it is unlawful to possess food fish or shellfish mutilated in any manner such that the natural length or weight cannot be determined if a length or weight limit is prescribed for said species.

(14) It shall be unlawful in any area to use, operate or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise pro-

vided for in the rules and regulations of the department of fisheries.

(15) It shall be unlawful for any permit holder to fail to comply with all provisions of any special permit or letter of approval issued to him under the authority of the director of fisheries, or to perform any act not specifically authorized in said document or in the regulations of the director of fisheries.

(16) It shall be unlawful to use, place or cause to be placed in the waters or on the beaches or tidelands of the state any substance or chemical used for control of predators or pests affecting food fish or shellfish or other aquatic marine organisms, without first having obtained a special permit to do so from the director of fisheries.

(17) It shall be unlawful to test commercial fishing gear except as follows:

(a) Bellingham Bay - inside and northerly of a line from Governor's Point to the south tip of Eliza Island to Point Frances in waters 10 fathoms and deeper.

(b) Boundary Bay - north of a line from Birch Point to Point Roberts and south of the international boundary in waters 10 fathoms and deeper during times not under IPSFC control.

(c) San Juan Channel - within a 1 mile radius of Point Caution during times not under IPSFC control.

(d) Port Angeles - inside and westerly of a line projected from the east tip of Ediz Hook through buoy C "1" to the mainland.

(e) Port Gardner - within a 2 mile radius of the entrance to Everett breakwater in waters 10 fathoms and deeper.

(f) Central Puget Sound - between lines from Meadow Point to Point Monroe and Skiff Point to West Point in waters 50 fathoms and deeper.

(g) East Pass - between lines from Point Robinson true east to the mainland and from Dash Point to Point Piner in waters 50 fathoms and deeper.

(h) Port Townsend - westerly of a line from the Coast Guard station in Port Townsend to Kala Point in waters 10 fathoms and deeper.

(i) All tows or sets are limited to 20 minutes exclusive of setting and retrieving time.

(j) All testing is to be accomplished between 8:00 a.m. and 4:00 p.m.

(k) Codends of trawl nets must be left open, all hooks of set line gear must be unbaited, and no lures or baited hooks shall be used with jig or troll gear.

(l) Any and all incidentally caught fish and shellfish must be returned to the waters immediately, and no fish or shellfish are to be retained aboard the vessel at any time during a gear test operation.

(m) It shall be unlawful for any person conducting such gear testing operations to fail to notify the fisheries patrol office in Olympia prior to testing.

(18) It is unlawful for any person or corporation either licensed by the department of fisheries or bringing food fish or shellfish into the state to fail to comply with the directions of authorized department personnel related to the collection of sampling data or material from food fish or shellfish. It is also unlawful for any such person or corporation to fail to relinquish to the department, upon request, any part of a

salmon or other food fish containing coded-wire tags, including but not limited to, the snouts of those salmon that are marked by having clipped adipose fins.

(19) It is unlawful to fish for or possess food fish or shellfish taken from any conservation area defined in chapter 220-16 WAC.

AMENDATORY SECTION (Amending Order 84-53, filed 6/21/84)

**WAC 220-20-015 Lawful and unlawful acts—Salmon.** (1) It is unlawful to operate in any river, stream or channel any gill net gear longer than three-fourths the width of the stream; this provision shall supersede all other regulations in conflict with it.

(2) It is unlawful to operate any net for removing snags from state waters without permit from the department of fisheries.

(3) It is unlawful to take, fish for or possess for commercial purposes chinook salmon less than 28 inches in length or coho salmon less than 16 inches in length except as follows:

(a) In the Puget Sound, Grays Harbor, Willapa Bay and Columbia River commercial salmon net fisheries there is no minimum size limit on salmon taken with gill net gear.

(b) In the Pacific Ocean commercial salmon troll fishery frozen chinook salmon, dressed heads off shall be 21 1/2 inches minimum and frozen coho salmon dressed heads off shall be 12 inches minimum, measured from the midpoint of the clavicle arch to the fork of the tail.

(c) This subsection does not apply to salmon raised in aquaculture.

(4) It is unlawful to set, maintain, or operate any reef net gear at any location which places the stern ends of either or both reef net boats of said gear less than a distance of 800 feet in front of or behind the head buoys of any row or reef net gear, within the boundaries of the Lummi Island Reef Net Fisheries Area, as described in RCW 75.12.140.

(5) It is lawful to possess salmon for any purpose which were lawfully obtained from state and federal government fish hatcheries and facilities. Subsections (3) and (12) of WAC 220-20-010 and subsection (3) of WAC 220-20-015 do not apply to salmon possessed under this subsection.

(6) It is unlawful to take or fish for food fish from a commercial salmon trolling vessel with gear other than lawful troll line gear while said vessel is engaged in commercial fishing or has commercially caught fish aboard.

(7) It shall be unlawful to angle for salmon for personal use from any vessel that is engaged in commercial salmon trolling or has commercially caught salmon aboard.

(8) It is unlawful to fish for or possess salmon taken for commercial purposes from the Sund Rock Marine Preserve or the Titlow Beach Marine Preserve.

AMENDATORY SECTION (Amending Order 97-51, filed 3/14/97, effective 4/14/97)

**WAC 220-20-020 General provisions—Lawful and unlawful acts—Food fish other than salmon.** (1) It is unlawful to fish for or possess for commercial purposes any round, undressed white sturgeon less than 48 inches or

greater than 60 inches in length or any round, undressed green sturgeon less than 48 inches or greater than 66 inches in length.

(2) It is unlawful to fish for or possess for commercial purposes or possess aboard a commercial fishing vessel for any purpose any species of halibut (*Hippoglossus*) unless permitted by the current regulations of the International Pacific Halibut Commission.

(3) It is unlawful to fish for or possess for commercial purposes sturgeon taken from any of the waters of Puget Sound or tributaries, and any sturgeon taken with any type of commercial gear incidental to a lawful fishery shall immediately be returned to the water unharmed.

(4) It is unlawful to fish for food fish for commercial purposes in the waters of Shilshole Bay inland and inside a line projected in a southwesterly direction from Meadow Point to West Point.

(5) It is unlawful to fish for or possess for commercial purposes any starry flounder less than 14 inches in length taken by any commercial gear, in all Puget Sound Marine Fish-Shellfish Areas.

(6) It shall be unlawful to harvest herring eggs naturally deposited on marine vegetation or other substrate, unless a person has a permit issued by the director.

(7) It is unlawful to fish for or possess food fish other than salmon taken for commercial purposes from the San Juan Islands Marine Preserve, except that it is lawful to take herring.

(8) It is unlawful to fish for or possess food fish other than salmon taken from the Titlow Beach Marine Preserve, the Sund Rock Marine Preserve, or the Edmonds Underwater Park.

**AMENDATORY SECTION** (Amending Order 95-166, filed 11/8/95, effective 12/9/95)

**WAC 220-20-025 General provisions—Shellfish.** (1) It is unlawful to drive or operate any motor-propelled vehicle, land any airplane or ride or lead any horse on the razor clam beds of the state of Washington, as defined in WAC 220-16-257.

(2) It is unlawful to possess any soft-shelled crab for any purpose.

(3) It is unlawful to possess in the field any crab from which the back shell has been removed.

(4) It is unlawful to use any chemicals when taking or fishing for octopus except for persons granted a scientific collector's permit from the department for the harvest of octopus for display or scientific purposes.

(5) It is unlawful to willfully damage crab or other shellfish. Any crab taken incidentally to a net fishery must be immediately returned to the water with the least possible damage to the crab.

(6) It is unlawful to fish for or possess shellfish taken for commercial purposes from the San Juan Islands Marine Preserve, except it is lawful to fish for crab in Parks Bay.

(7) It is unlawful to fish for, harvest, or possess shellfish taken from the Titlow Beach Marine Preserve, the Sund Rock Marine Preserve, or the Edmonds Underwater Park.

**WSR 98-09-097**

**PROPOSED RULES**

**DEPARTMENT OF ECOLOGY**

[Order 98-02—Filed April 22, 1998, 9:55 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 98-06-090.

Title of Rule: MSW landfill emission guidelines and new source performance standards, chapter 173-400 WAC.

Purpose: The purpose of the rule is to authorize state implementation of EPA's MSW (municipal solid waste) landfill emission guidelines of 40 CFR 60 subpart Cc. This authority is a required element of the "state plan" for implementing the EPA emission guidelines, as mandated by 40 CFR 60.23. The rule would also incorporate the MSW landfill NSPS, 40 CFR 60 subpart WWW.

Other Identifying Information: To amend WAC 173-400-173.

Statutory Authority for Adoption: RCW 70.94.785 Plans approved pursuant to federal Clean Air Act—Enforcement authority.

Statute Being Implemented: RCW 70.94.510 Policy to cooperate with federal government.

Summary: This paragraph proposes incorporation of the EPA rules for newer MSW landfills, and except as to Title V, treat older ones as newer ones.

Reasons Supporting Proposal: The rule would regulate the same activity or subject matter as a federal requirement. Without a state implementation, the federal requirement would be implemented through a federal implementation plan. This rule would not substantively differ from the federal requirement. This rule adopts or incorporates by reference without material change the federal Clean Air Act and United States EPA regulations, and the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Name of Agency Personnel Responsible for Drafting: Steve Cross, 300 Desmond Drive, Lacey, (360) 407-6875; Implementation and Enforcement: Local air authorities.

Name of Proponent: Steve Cross, Washington Department of Ecology Air Quality Program, governmental.

Rule is necessary because of federal law, federal Clean Air Act, § 111(d), 40 CFR 60.23.

Explanation of Rule, its Purpose, and Anticipated Effects: There is no federal rule that applies EPA's emission guidelines to "existing" MSW landfills. 40 CFR 60.23 mandates that ecology submit a "state plan" to implement EPA's emission guidelines. The state plan must include a statement of state authority to carry out various aspects of the plan. If the state does not submit a plan to implement the guidelines, then EPA will impose a federal plan on the affected facilities.

There is a federal rule that applies to "new" MSW landfills, 40 CFR 60 subpart WWW. Incorporation of the federal rule into a state rule would authorize state authorities to administer the rule. It is also necessary to streamline the authority element of the "state plan" for implementing the EPA emission guidelines for "existing" MSW landfills.

Proposal Changes the Following Existing Rules: Section 111(d) of the federal Clean Air Act amendments of 1990

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required EPA to establish a procedure for each state to submit a plan to establish, implement, and enforce standards of performance for nonnew NSPS sources. EPA promulgated this general requirement at 40 CFR 60 subpart B. EPA promulgated MSW landfill NSPS and emission standards in 1996, and the state plan to implement the emission guidelines for existing sources was due nine months later. EPA extended the deadline to the 31st day in the month of March of the year 1998.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule would impose no greater small business economic impacts than would otherwise be imposed under federal administration of the subject.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The proposed rule amendment would adopt or incorporate by reference without material change a federal regulation, and the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Hearing Location: Puget Sound Air Pollution Control Agency, 110 Union Street, Suite 500, Seattle, WA, on May 26, 1998, at 13:00.

Assistance for Persons with Disabilities: Contact Pat Norman, TDD (360) 407-6841, or (360) 407-6841.

Submit Written Comments to: Steve Cross, P.O. Box 47600, Olympia, WA 98504-7600, by June 2, 1998.

Date of Intended Adoption: July 6, 1998.

March 30, 1998

Daniel Silver

Deputy Director

**AMENDATORY SECTION** (Amending Order 94-35, filed 9/13/96, effective 10/14/96)

**WAC 173-400-115 Standards of performance for new sources.** Title 40, Code of Federal Regulations, Part 60 (standards of performance for new sources), as in effect on January 1, 1993, is adopted by reference except for sections 60.5 (determination of construction or modification) and 60.6 (review of plans). The term "administrator" in 40 CFR Part 60 shall mean both the administrator of EPA and the director of ecology.

Title 40, Code of Federal Regulations, Part 60, subpart WWW (40 CFR 60.750 et seq.) Standards of Performance for Municipal Solid Waste Landfills, as in effect on 7-1-97 is adopted by reference.

Municipal solid waste landfills that are designated facilities of 40 CFR subpart Cc (40 CFR 60.30c, et seq.), and that meet the three criteria of 40 CFR 60.33c(a), shall be subject to the provisions of 40 CFR Part 60 subpart WWW, except for the provisions relating to the applicability of 40 CFR Part 70.

As of January 1, 1993, the federal regulations adopted by reference hereby set standards of performance affecting facilities for the following described subparts of 40 CFR Part 60:

Subpart D	Fossil fuel fired steam generators for which construction commenced after August 17, 1971, and prior to September 19, 1978, which have a heat input greater than 73 megawatts but not greater than 250 megawatts
Subpart Da	Electric utility steam generating units for which construction commenced after September 18, 1978, which have a heat input greater than 73 megawatts but not greater than 250 megawatts
Subpart Db	Industrial-commercial-institutional steam generating units for which construction commenced after June 19, 1984, and prior to June 19, 1986, which have a heat input greater than 29 megawatts but less than 73 megawatts
Subpart Dc	Small industrial-commercial-institutional steam generating units
Subpart E	Incinerators
Subpart Ea	Municipal waste combustors
Subpart F	Portland cement plants
Subpart G	Nitric acid plants
Subpart H	Sulfuric acid plants
Subpart I	Asphalt concrete plants
Subpart J	Petroleum refineries which produce less than 25,000 barrels per day of refined products
Subpart K	Storage vessels for petroleum liquid constructed after June 11, 1973, and prior to May 19, 1978, which have a capacity greater than 40,000 gallons
Subpart Ka	Storage vessels for petroleum liquids constructed after May 18, 1978, which have a capacity greater than 40,000 gallons
Subpart Kb	Volatile organic liquid storage vessels (including petroleum liquid storage vessels) constructed, reconstructed, or modified after July 23, 1984
Subpart L	Secondary lead smelters
Subpart M	Brass and bronze ingot production plants
Subpart N	Iron and steel plants
Subpart Na	Secondary emissions from basic oxygen process steel making facilities
Subpart O	Sewage treatment plants
Subpart P	Primary copper smelters
Subpart Q	Primary zinc smelters
Subpart R	Primary lead smelters
Subpart S	Primary aluminum reduction plants
Subpart T	Phosphate fertilizer industry: Wet process phosphoric acid plants

Subpart U	Phosphate fertilizer industry: Superphosphoric acid plants	Subpart KKK	Equipment leaks of VOC from onshore natural gas processing plants
Subpart V	Phosphate fertilizer industry: Diammonium phosphate plants	Subpart LLL	Onshore natural gas processing; SO <sub>2</sub> emissions
Subpart W	Phosphate fertilizer industry: Triple superphosphate plants	Subpart NNN	VOC emissions from SO <sub>2</sub> distillation operations
Subpart X	Phosphate fertilizer industry: Granular triple superphosphate storage facilities	Subpart PPP	Wool fiberglass insulation manufacturing plants
Subpart Y	Coal preparation plants	Subpart QQQ	VOC emissions from petroleum refinery wastewater emissions
Subpart Z	Ferroalloy production facilities	Subpart RRR	VOC emissions from synthetic organic chemical manufacturing industry
Subpart AA	Steel plants: Electric arc furnaces	Subpart SSS	Magnetic tape coating facilities
Subpart AAa	Steel plants: Electric arc furnaces and argon-oxygen decarburization vessels	Subpart TTT	Industrial surface coating: Surface coating of plastic parts for business machines
Subpart BB	Kraft pulp mills	Subpart UUU	Calciners and dryers in mineral industries
Subpart CC	Glass manufacturing plants	Subpart VVV	Polymeric coating of supporting substrates facilities
Subpart DD	Grain elevators		
Subpart EE	Industrial surface coating: Metal furniture	Note:	For fossil fuel fired steam generators referenced by Subpart D and Da above, units greater than 250 megawatts are governed by the energy facility site evaluation council (EFSEC) in Title 463 WAC.
Subpart GG	Stationary gas turbines		
Subpart HH	Lime manufacturing plants		
Subpart KK	Lead-acid battery plants		
Subpart LL	Metallic mineral processing plants		
Subpart MM	Automobile and light duty truck surface coating operations		
Subpart NN	Phosphate rock plants		
Subpart PP	Ammonium sulfate manufacture		
Subpart QQ	Publication rotogravure printing		
Subpart RR	Pressure sensitive tape and label surface coating operations		
Subpart SS	Industrial surface coating: Large appliances		
Subpart TT	Industrial surface coating: Metal coils		
Subpart UU	Asphalt processing and asphalt roofing manufacture		
Subpart VV	SOCMI equipment leaks (VOC)		
Subpart WW	Beverage can surface coating operations		
Subpart XX	Bulk gasoline terminals		
Subpart AAA	New residential wood heaters		
Subpart BBB	Rubber tire manufacturing industry		
Subpart DDD	VOC emissions from the polymer manufacturing industry		
Subpart FFF	Flexible vinyl and urethane coating and printing		
Subpart GGG	Petroleum refineries - compressors and fugitive emission sources		
Subpart HHH	Synthetic fiber production facilities		
Subpart III	VOC emissions from SO <sub>2</sub> air oxidation unit processes		
Subpart JJJ	Petroleum dry cleaners		

**WSR 98-09-099**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**

[Filed April 22, 1998, 10:10 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 98-06-096.

Title of Rule: Metrology laboratory fees, chapter 16-675 WAC, Calibration services.

Purpose: Increase metrology laboratory fees from \$65.00 per hour to \$75.00 per hour.

Statutory Authority for Adoption: RCW 19.94.216.

Statute Being Implemented: Chapter 19.94 RCW.

Summary: This rule provides a fee increase which applies to all services performed by the metrology laboratory. Mileage and per diem costs are charged for metrology services performed at sites other than the metrology laboratory.

Reasons Supporting Proposal: RCW 19.94.216(1) states that the metrology laboratory shall recover at least 75% of the laboratory's costs incurred in providing services by June 30, 1998.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jerry Buendel, 1111 Washington Street, Olympia, WA, (360) 902-1856.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: RCW 19.94.216(1) provides for these fees to be increased in excess of the fiscal growth factor as provided in chapter 43.135 RCW.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule increases the fee for inspection, testing and calibration services provided by the department's metrology laboratory. RCW 19.94.216 stipulates that fees charged for services performed by the metrology laboratory would recover at least 75% of the laboratory's costs on or before June 30, 1998. Further, increases in excess of the fiscal growth factor are authorized for fiscal years 1996, 1997 and 1998. This increase in fees is an adjustment to comply with the statutory requirement.

Proposal Changes the Following Existing Rules: This proposal changes the current metrology laboratory fee schedule from \$65 per hour to \$75 per hour.

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

#### Small Business Economic Impact Statement

From a survey of businesses conducted by my program staff we determined that the proposed rule change regarding the increase of metrology lab fees will affect businesses in the industry of service agents. Service agents repair and test weighing and measuring devices for all companies owning and operating these devices in Washington state.

Service agents pay the Washington State Department of Agriculture's (WSDA) weights and measure's metrology laboratory to calibrate their testing devices in accordance with official measurement standards maintained by the department. According to RCW 19.94.325, the testing devices used by service agents must be calibrated and sealed every two years. The increase of fees by \$10.00 is below the last known guidelines of the Small Business Assistance Center, which was \$50.00.

The department conducted a random survey of twenty-five service agents classified as small business (under fifty employees). Twenty percent indicated the laboratory fee increase would impose a hardship on their business. The department also submitted the proposed increase to its sixteen member advisory group. The advisory group is composed of consumer group representatives as well as industry representatives. To date none have responded negatively to the proposed increase.

The department's position is that it cannot legally mitigate the economic impact on the service repair agents because of statutory instruction passed in 1994. The legislature passed state law, chapter 19.94 RCW, Weights and measures, instructing the department to incrementally increase fees to cover 75% of the cost of the metrology laboratory. Even with this fee increase, the fees may fall short of the mandated goal. The financial justification of operating the metrology laboratory on a fee basis is included in the official rule file and will be available at the public rule hearing. In addition, a copy of the legislative mandate will be provided and filed accordingly.

The fee increase will not require businesses to purchase new equipment, additional supplies or to hire additional labor resources. The cost of complying with the proposed rule should also not cause service repair businesses to lose sales or revenue.

A copy of the statement may be obtained by writing to Washington State Department of Agriculture, Jerry Buendel, Program Manager, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1857, or FAX (360) 902-2086.

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

Hearing Location: Natural Resources Building, 2nd Floor, Room 205, 1111 Washington Street, Olympia, WA 98504, on May 26, 1998, at 12:30 p.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by May 22, 1997 [1998], TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Washington State Department of Agriculture, Jerry Buendel, Program Manager, P.O. Box 42560, or 1111 Washington Street, Olympia, WA 98504-2560, FAX (360) 902-2086, by 5:00 p.m., May 26, 1998.

Date of Intended Adoption: May 27, 1998.

April 20, 1998

Julie C. Sandberg

Assistant Director

**AMENDATORY SECTION** (Amending WSR 97-12-024, filed 5/29/97, effective 6/29/97)

**WAC 16-675-030 Condition of submitted weights and measures.** Weights and measures standards submitted to the laboratory for tolerance testing or calibration must be in a physical condition that makes them acceptable for the service to be performed. Unacceptable weights and measures standards may be returned to the sender at the sender's expense or, if repairs can be made, these repairs shall be charged at the rate of (~~(\$65.00)~~ **seventy-five dollars**) an hour. Repair fees shall be charged in addition to any testing or other calibration fees. Repairs will only be done by written agreement between the department and the owner of the weights or measures to be repaired.

**AMENDATORY SECTION** (Amending WSR 97-12-024, filed 5/29/97, effective 6/29/97)

**WAC 16-675-040 Schedule of laboratory fees.** The following fees will be charged for services performed by the metrology laboratory of the department:

(1) An hourly fee of (~~(sixty-five)~~ **seventy-five**) dollars per hour will be charged for inspection, tolerance testing and calibration services performed at the metrology laboratory.

(2) Inspection, tolerance testing and calibration services performed at other than the metrology laboratory will be charged an hourly rate of (~~(sixty-five)~~ **seventy-five**) dollars per hour plus the current mileage and per diem rates established by the office of financial management.

(3) There will be a minimum one-half hour charge for any services provided by the laboratory.



## WSR 98-09-100

## PROPOSED RULES

## DEPARTMENT OF AGRICULTURE

[Filed April 22, 1998, 10:12 a.m.]

Date of Intended Adoption: May 27, 1998.

April 22, 1998

Julie C. Sandberg

Assistant Director

## Original Notice.

Preproposal statement of inquiry was filed as WSR 98-06-094.

Title of Rule: Application for certification of forest reproductive material.

Purpose: To respond to industry request to increase seed certification fees for forest reproductive material.

Statutory Authority for Adoption: RCW 15.49.005, 15.49.310, 15.49.370(3).

Statute Being Implemented: RCW 15.49.370(3).

Summary: The proposal raises fees for certification of forest reproductive material.

Reasons Supporting Proposal: Industry request to reflect the current cost of operating this portion of the seed certification program delegated by the director of agriculture to the Washington State Crop Improvement Association.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Graydon Robinson, Washington State Department of Agriculture, Seed Program, 2015 South 1st Street, Yakima, (509) 575-2750.

Name of Proponent: Keith Pfeifer, Manager, Washington State Crop Improvement Association, Washington State Department of Agriculture, public and governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The fee increase is within the fiscal growth factor.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal is in response to industry request to increase certification fees for forest reproductive material. This fee increase reflects current operating costs of the forest reproductive material program.

Proposal Changes the Following Existing Rules: Proposal raises certification fees to the current fiscal growth factor.

No small business economic impact statement has been prepared under chapter 19.85 RCW. All businesses affected by this proposal are big businesses.

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

Hearing Location: Department of Agriculture, 2015 South First Street, Yakima, WA, on May 26, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by May 22, 1998, TDD (360) 902-1996.

Submit Written Comments to: Graydon Robinson, Program Manager, Washington State Department of Agriculture Seed Program, 2015 South 1st Street, Yakima, 98903, FAX (509) 454-4395, by May 26, 1998, 5:00 p.m.

AMENDATORY SECTION (Amending Order 5097, filed 5/8/96, effective 6/8/96)

**WAC 16-319-041 Application for certification of forest reproductive material.** (1) The conditions of applicant's submittal and of certifying agency's acceptance of application are:

(a) The application should show all classes for which certification services are requested.

(b) All reproductive material acquired or distributed by applicant of a type for which certification is requested is subject to audit.

(c) Applicant shall be responsible for payment of fees for certification services.

(d) Applicant is responsible for developing a record keeping system and labels available and satisfactory to the certifying agency.

(e) Certifying agency reserves the right to refuse certification service to applicant.

(f) Application for audit certification reproductive material shall be filed with certifying agency of the state in which warehouse, nursery, etc., is located with a copy to the certifying agency in the state where the reproductive material is collected.

(2) Timing of application requests for certification services:

(a) Application requests for source identified subclass B and lower classes for the current year's production of reproductive material shall be received by certifying agency from applicant not later than three days prior to initiation of collection, production, or propagation of forest reproductive material.

(b) For source identified subclass A and higher certification class, the applicant shall make application for service, and present a written plan to the certifying agency two weeks prior to the beginning of the collection season. The written plan will include the following:

(i) For subzone collection, areas shall be defined by legal description.

(ii) Details of the collection organization including names of buyers and field supervisors, estimated harvest volume, receiving station location(s), and other pertinent information.

(c) Application requests for all other services shall be received by certifying agency from applicant not later than seven days before need.

(3) The certifying agency establishes the fee schedule for certification services. These may be adjusted at the beginning of a crop year if certifying agency determines that costs are significantly more or less than anticipated: *Provided*, That increases shall not exceed twenty-five percent.

(a) Cones and seed:

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(i) Tested and selected - the service includes review of test plans, audit of pertinent records and field inspection at the hourly job time rate shown in current fee schedule.

(ii) Source identified classes - the fee includes field inspection at the per bushel rate shown in the current fee schedule and audit of conditioning at the hourly rate also shown in the current fee schedule.

The fee for each lot containing less than sixty bushels shall be a maximum of thirty-six dollars: *Provided*, That the certifying agency, due to specific circumstances, may waive this maximum fee or a part thereof.

(iii) Audit class - the fee includes audit of applicant's field and conditioning records at the hourly rate shown in the current fee schedule.

(b) Trees: The fee includes the verification of the source of the trees from the seed source, stratification, sowing, bed identification, lifting, sorting, package identification, storing and/or transplanting.

(c) Not entered for certification: The fee for audit of reproductive material not entered for certification service is performed as required by and satisfactory to certifying agency to exercise said audit simultaneously with audit of reproductive material which applicant has requested certification service.

(d) The fee for certification classes applied for shall be charged whether or not offered material qualifies.

(e) The certifying agency may provide other services, such as training to comply with these standards, advising on the development of recordkeeping systems directly connected with certification needs if requested by the applicant.

(4) Fee schedule:

Effective June 28, 1998, the fee schedule is as follows:

(a) Tree cones and seed -

Certification Classes	Field		Fee Due
	Inspection	Audit	
Tested and Selected	<del>(\$21.55/hr.)</del> \$22.42/hr.	<del>\$21.55/hr.)</del> \$22.42/hr.	When billed
Source Identified Classes:			
Lots 11 bu. and more	<del>(\$0.73/bu.)</del> \$0.75/bu.	<del>\$21.55/hr.)</del> \$22.42/hr.	
Lots 6-10 bu.	<del>(\$17.34/lot)</del> \$18.04/lot	<del>\$21.55/hr.)</del> \$22.42/hr.	
Lots 0-5 bu.	<del>(\$10.51/lot)</del> \$10.93/lot	<del>\$21.55/hr.)</del> \$22.42/hr.	
Audit	None	<del>(\$21.55/hr.)</del> \$22.42/hr.	When billed

(b) Tree certification - ~~(\$21.55/hr.)~~ \$22.42/hr.

Seedling certification - experience has shown that seedling certification normally requires a minimum of five nursery visits totalling approximately thirty-two hours. Plantation certification procedures shall be billed at the hourly rate.

(c) Other services including education to comply with the standards, development of record system, verification of source of pollen, cuttings, audit of forest reproductive mate-

rial not offered for certification by applicant or other services requested, etc. at ~~(\$21.55/hour)~~ \$22.42/hour payable when billed.

(d) OECD certification (certificates of provenance) - ~~(\$0.52)~~ \$0.54 per certificate plus the hourly audit rate. (Auditors shall issue certificates.)

Effective July 1, 1998, the fee schedule is as follows:

(a) Tree cones and seed -

Certification Classes	Field		Fee Due
	Inspection	Audit	
Tested and Selected	\$23.35/hr.	\$23.35/hr.	When billed
Source Identified Classes:			
Lots 11 bu. and more	\$0.78/bu.	\$23.35/hr.	
Lots 6-10 bu.	\$18.79/lot	\$23.35/hr.	
Lots 0-5 bu.	\$11.38/lot	\$23.35/hr.	
Audit	None	\$23.35/hr.	When billed

(b) Tree certification - \$23.35/hr.

Seedling certification - experience has shown that seedling certification normally requires a minimum of five nursery visits totalling approximately thirty-two hours. Plantation certification procedures shall be billed at the hourly rate.

(c) Other services including education to comply with the standards, development of record system, verification of source of pollen, cuttings, audit of forest reproductive material not offered for certification by applicant or other services requested, etc. at \$23.35/hour payable when billed.

(d) OECD certification (certificates of provenance) - \$0.56 per certificate plus the hourly audit rate. (Auditors shall issue certificates.)

**WSR 98-09-101  
PROPOSED RULES  
DEPARTMENT OF AGRICULTURE**

[Filed April 22, 1998, 10:15 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-06-093.

Title of Rule: Seed certification and standards.

Purpose: Response to industry request to increase seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum, and small grains and to add and delete eligible varieties.

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

Statute Being Implemented: Chapter 15.49 RCW.

Summary: Proposal increases seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum, and small grains and adds and deletes eligible varieties.

Reasons Supporting Proposal: The fee increases will reflect current costs of operating the portion of the seed certification program delegated by the director to the Washington State Crop Improvement Association.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Graydon Robinson, Washington State Department of Agriculture, Seed Program, 2015 South 1st Street, Yakima, (509) 575-2750.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal is in response to industry request to increase seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum, and small grains. The fee increases reflect the operating costs of the portion of the seed certification program delegated by the director to the Washington State Crop Improvement Association. The proposal also, at industry request, adds and deletes eligible varieties.

Proposal Changes the Following Existing Rules: Increases seed certification fees and adds and deletes eligible varieties.

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

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

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

This fee increase is at the request of the seed industry through its primary organizations: The Washington-North

(a) Application fee per variety per grower .....	<del>(\$18.27)</del> <b>\$19.03</b>
(b) Field inspection fee per acre except millet and hybrid sorghum .....	<del>(\$2.55)</del> <b>\$ 2.65</b>
(c) Millet - first acre .....	<del>(\$27.16)</del> <b>\$28.29</b>
- each additional acre .....	<del>(\$ 5.43)</del> <b>\$ 5.65</b>
(d) Hybrid sorghum - first acre .....	<del>(\$27.16)</del> <b>\$28.29</b>
- each additional acre .....	<del>(\$10.86)</del> <b>\$11.31</b>
(e) Special field inspection fee per acre .....	<del>(\$ 2.27)</del> <b>\$ 2.36</b>
(f) Late application fee .....	<del>(\$17.12)</del> <b>\$17.83</b>
(g) Reinspection fee .....	<del>(\$34.26)</del> <b>\$35.69</b>

minimum for each field which did not pass field inspection plus \$ 0.40 for each acre over twenty-five. The reinspection fee for isolation requirements only for a field of any size is ~~(\$34.26)~~ **\$35.69.**

Idaho Seed Association, the Washington Seed Council, and the WSCIA board of directors.

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

Hearing Location: Department of Agriculture, 2015 South First Street, Yakima, WA, on May 26, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by May 22, 1998, TDD (360) 902-1996.

Submit Written Comments to: Graydon Robinson, Program Manager, Washington State Department of Agriculture, Seed Program, 2015 South First Street, Yakima, WA 98903, FAX (509) 454-4395, by May 26, 1998, 5:00 p.m.

Date of Intended Adoption: May 27, 1998.

April 22, 1998  
Julie C. Sandberg  
Assistant Director

AMENDATORY SECTION (Amending WSR 97-16-026, filed 7/29/97, effective 8/29/97)

**WAC 16-316-474 Buckwheat—Chickpea—Field pea—Lentil—Millet—Soybean—Sorghum—Small grain—Application and fees.** (1) An application for seed certification with application fee, field inspection fee, and late application fee (if due) for each field shall be filed by or for each grower with Washington State Crop Improvement Association, Inc., the certifying agency for seeds of buckwheat, chickpea (garbanzo beans), field pea, lentil, millet, soybean, sorghum and small grains.

- (2) Due dates:  
 (a) Buckwheat - June 1  
 (b) Field pea - June 1  
 (c) Chickpea - June 1  
 (d) Lentil - June 1  
 (e) Millet - June 1  
 (f) Soybean - July 1  
 (g) Sorghum - July 15  
 (h) Small grains - June 1 for both winter varieties and spring varieties.

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

(3) Fees:

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- (h) Final certification fee . . . . . ((\$0.22)) \$ 0.225  
per cwt. of clean seed sampled, which shall be charged to conditioning plant, or production fee . . . . . \$0.105  
per cwt. of production from fields inspected which is utilized for seed, which shall be charged to the grower or the final  
seller prior to brokerage, retail sale, sale to plant not approved for conditioning certified seed, or transshipment out-of-  
state.
- (i) Sampling fee . . . . . \$0.105  
per cwt. of clean seed sampled, with minimum charge of ten dollars per sample, which shall be charged to conditioning  
plant in lieu of mechanical sampling.

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

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

AMENDATORY SECTION (Amending Order 5086, filed 10/25/95, effective 11/25/95)

**WAC 16-316-525 Buckwheat—Chickpea—Field pea—Lentil—Millet—Soybean—Sorghum—Small grain—Eligible variety and stock seed.**

Kind	Variety
Barley, spring	<del>((Belford, Camelot (P), Columbia (P), Colter, Cougar, Crest, Crystal, Exel, Gallatin, Harrington, Klages, Horsford, Maranna, Medallion (P), Menuet (P), Melody (P), Meltan (P), Morex, Nancy (P), Russell, Steptoe, Baronesse (P), WestBred Gustoe (P), WestBred Sprinter (P), Whitford (P)))</del> <u>Bancroft, Baronesse (P), Bear, Belford, Camelot (P), Chinook, Colter, Columbia (P), Crest, Gallatin, Garnet, Germain's 96 (P), Harrington, Lewis, Maranna, Melody (P), Meltan (P), Micah, Morex, Steptoe, Washford, WB Nebula (P), WestBred Gustoe (P), Westford (P)</u>
Chickpea	Dwellely, <u>Evans</u> , Myles, Sanford, Sara
Barley, winter	Boyer, Eight-Twelve, Hesk, <u>Hoody</u> , Hundred, Kamiak, <u>Kold, Scio</u> , Showin
Buckwheat, spring	<u>Mancan, Manor</u> ( <del>(, Mancan)</del> )
Field pea	<del>((Alaska 81, Garfield, Latah, Umatilla))</del> <u>Aladin, Alaska 81, Astina, Croma, Delta, Espace, Fallon, Joel, Karita, Phantom, Shawnee, Swing, Umatilla</u>
Lentil	Brewer, <u>Crimson, Mason</u> , Red Chief
Oat, spring	<u>Cayuse, Celsia, Magnum (P)</u> , Monida, Otana, Park(,)
Rye, winter	Puma, Rymin

Kind	Variety
Wheat, spring	<del>((Alpowa, Butte 86, Calorwa, Centennial, Dirkwin, Edwall, Klasic (P), Nomad (P), Penawawa, Spillman, Treasure, Wadual, Wadual 94, Wakanz, Wampum, Wawawai, WestBred 906R (P), WestBred 926 (P), WestBred 936 (P), WestBred Express (P), WestBred Sprite, WestBred Vanna (P), Yecora Rojo))</del> <u>Alpowa, Butte 86, Calorwa, Cavalier (P), Centennial, Edwall, ID3775, Klasic (P), Kulm, ML455 (P), Nomad (P), Penawawa, Pomerelle, Skagit (P), Spillman, Sunstar 50-30 (P), Treasure, Wadual, Wadual 94, Wakanz, Wawawai, WestBred 906R (P), WestBred 926 (P), WestBred 936 (P), WestBred Express (P), WestBred Sprite, WestBred Vanna (P), Whitebird, Yecora Rojo</u>
Wheat, winter	<del>((Andrews, Banner (P), Basin (P), Batum, Blizzard, Buchanan, Cashup (P), Daws, Durham's Pride (P), Eltan, Gene, Hatton, Hill 81, Hoff, Hyak, John, Kmor, Lewjain, MacVicar, Madsen, Malcolm, Meridian, Moro, Nugaines, Quantum 542 (P), Rely, Red, Rohde, Sprague, Stephens, Tres, Weston))</del> <u>Andrews, Banner (P), Basin (P), Batum, Blizzard, Bonneville, Buchanan, BZ-470, Cashup (P), Coda, Daws, Durham's Pride (P), Eltan, Finley, Gene, Hatton, Hill-81, Hiller, Hoff, Hyak, John, Lambert, Lewjain, MacVicar, Madsen, Malcolm, Meridian, Moro, Nugaines, Quantum 542 (P), Rely, Rod, Sprague, Stephens, Survivor, Symphony (P)</u>
Triticale, spring	<del>((Juan, Victoria,))</del> Grace, Trical 2700 (P), <u>Victoria</u>
Triticale, winter	Celia, <del>((Flora,))</del> Stan I (P), <u>Trical 102 (P), Trical 6600 (P), Trical Jenkins (P), ((Frical 102 (P)),) Trical Stan II (P), Trical XTO-65 (P)((, Whitman))</u>

Kind	Variety
<u>Wheat, Durum, Spring</u>	<u>Bravadur, Duraking, Durex, Kronos, Reva, Ria, Rich</u>
<u>Wheat, Durum, Win- ter</u>	<u>OR 3920036</u>

(P) means proprietary

The eligibility of other varieties may be approved by the certifying agency.

Foundation seed is eligible to produce registered seed or certified seed.

Registered seed is eligible to produce certified seed.

Certified seed is not eligible for recertification.

**WSR 98-09-103**  
**PROPOSED RULES**  
**LOTTERY COMMISSION**

[Filed April 22, 1998, 10:20 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 98-03-074.

Title of Rule: WAC 315-06-123 Rules for voluntary assignments of prizes.

Purpose: Amends WAC 315-06-123 governing the process for voluntary assignment of prizes.

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: WAC 315-06-123 requires petitioners for voluntary assignment of prizes to file petitions with the director of the lottery, as well as with the attorney general. In addition, the certified copy of the order must be served on the director at least twenty working days prior to the annual payment to allow sufficient time for change of assignee. The amended rule also specifies processing fees for amended orders.

Proposal Changes the Following Existing Rules: Requires service of petitions on the director of the lottery as well as the attorney general. Requires service of the certified copy of the order or amended order twenty working days before annual payment (increased from twelve working days). Specifies processing fees for amended orders.

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 Fair-

ness Act, chapter 19.85 RCW, and has determined that they are not for the following reasons: (1) The rules have no economic impact on business' cost of equipment, supplies, labor or administrative costs. The rules are designed to establish rules and procedures for the playing of instant lottery games; and (2) the rules will have a negligible impact, if any, on business because they are interpretive. They have been promulgated for the purpose of stating policy, procedure and practice and do not include requirements for forms, fees appearances or other actions by business.

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 July 17, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Mary Jane Ferguson by July 10, 1998, (360) 753-1947.

Submit Written Comments to: Mary Jane Ferguson, Lottery, FAX (360) 586-6586, by July 16, 1998.

Date of Intended Adoption: July 17, 1998.

April 22, 1998

Mary Jane Ferguson

Rules Coordinator

**[AMENDATORY SECTION (Amending WSR 97-20-052, filed 9/24/97, effective 10/25/97)]**

**WAC 315-06-123 Voluntary assignment of prize pursuant to an appropriate judicial order.** (1) In the case of a petition for an order or an amended order for the voluntary assignment of a prize, a copy of a petition shall be served on the Director of the Lottery or designee, in addition to service on the attorney general, no later than ten days before any hearing or entry of any order or amended order. After superior court entry of voluntary assignment of a right to a prize pursuant to an appropriate judicial order or amended order, the Director shall make payment to the person designated by a certified copy of the order or amended order which has been served upon the Director personally or by certified mail provided that the order contains, in addition to the requirements set forth in RCW 67.70.100(2), the following provisions:

(a) The assignor's name. For an initial assignment, the winner's name as it appears on the prize claim form;

(b) The assignee's name;

(c) The citizenship or resident alien number of the assignee (if a natural person).

(2) The certified copy of the order must be served on the Director at least ~~(twelve (12))~~ twenty (20) working days prior to the annual payment date to allow for a change in the payee. The Director shall not be liable for failure to pay an annual payment to an assignee if service of the order and presentation of the required information for tax withholding purposes described in subsection (3) of this section is not timely made.

(3) Payment shall be made payable to the name of the assignee designated in the judicial order and to no other name and federal income tax withholding shall be deducted from each payment and reported to the internal revenue service.

PROPOSED

## WSR 98-09-104

## PROPOSED RULES

## DEPARTMENT OF AGRICULTURE

[Filed April 22, 1998, 10:22 a.m.]

The assignee shall provide its social security number, if a natural person, or tax identification number, if a legal entity, to the Director at the time the judicial order is served for the purpose of reporting tax withholding to the Internal Revenue Service and for the purpose of applying the debt collection process as described in subsection (5) of this section.

(4) RCW 67.70.100 authorizes the Director to charge actual costs for each assignment and deduct such costs from the initial annuity payment made to the assignee. In determining actual costs the Director has considered the staff time required to determine the sufficiency of the judicial order or amended order and to process the initial payment; telegraphic and long distance telephone communications, photocopying, postage, and private delivery service; and legal services directly related to determining the sufficiency of the judicial order and processing of the initial payment, including legal services and costs associated with any legal proceeding in which the agency is represented by the office of the attorney general. The director has determined the following costs shall be deducted from the initial annuity payment made to each assignee, unless paid pursuant to subsection (e):

(a) Assignment of whole annuity payments (one or more years) resulting in payment only to the assignee during each year of the assignment: \$250; or

(b) Assignment of a portion/percentage of annuity payments resulting in annual payments to one or more assignees and/or the original prize winner: \$300 for the first year of the assignment, plus \$75 for each year thereafter();

(c) Assignment pursuant to an amended order of assignment, resulting in annual payments to the same number of assignees as in the original order: \$250;

(d) Assignment pursuant to an amended order of assignment, resulting in annual payments to one or more assignees in addition to the assignees in the original order of assignment: \$300 for the first year of the amended order of assignment, plus \$75 for each year thereafter;

(e) If payment of the total fees due for costs for processing an order or amended order is received by the Lottery together with and at the same time as the required certified copy of the order or amended order, the fees will not be deducted from annual payments;

(f) The director shall review these costs at least biennially from December 1, 1997, and shall recommend adjustments, if necessary, for commission consideration and approval.

(5) The debt collection process mandated by RCW 67.70.255 and WAC 315-06-125 shall be applied to all payments made to any person pursuant to a voluntary assignment. The term person shall have the same meaning as the definition set forth in WAC 315-02-180.

**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.

**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.

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-05-104.

Title of Rule: Livestock services—Fees.

Purpose: (1) To delete WAC 16-32-009 which contains an outdated schedule of laboratory fees, (2) to add two new additional optional services offering improved testing for Bovine Leukemia virus and Johne's disease of cattle, and (3) to make the rule clear and readable.

Statutory Authority for Adoption: RCW 16.38.060.

Statute Being Implemented: RCW 16.38.060.

Summary: New testing methods have made it possible for the microbiology laboratory to provide better service to the livestock industry and animal health.

Reasons Supporting Proposal: The new testing method is being made available to the industry at their option.

Name of Agency Personnel Responsible for Drafting: Mary Toohey, Assistant Director, 1111 Washington Street, Olympia, WA 98504, (360) 902-1907; Implementation and Enforcement: Linda Polzin, Program Manager, 3939 Cleveland Avenue S.E., Olympia, WA 98501, (360) 753-2228.

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

Explanation of Rule, its Purpose, and Anticipated Effects: New testing methods have made it possible for the microbiology laboratory to provide better service to the livestock industry and animal health.

Proposal Changes the Following Existing Rules: Two new testing methods have been added to the existing rule, and an outdated portion of the WAC (WAC 16-32-009) has been repealed. In addition, changes were made to comply with clear and readable rule standards.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The new tests are voluntary.

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

Hearing Location: Washington State Department of Agriculture, 1111 Washington Street, 2nd Floor, Conference Room 259, Olympia, WA 98504, on June 8, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by June 1, 1998, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Mary Toohey, Assistant Director, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, FAX (360) 902-2094, by June 8, 1998.

Date of Intended Adoption: June 23, 1998.

April 22, 1998

Mary A. Martin Toohey  
Assistant Director

PROPOSED

**AMENDATORY SECTION** (Amending Order 5043, filed 5/27/94, effective 6/27/94)

**WAC 16-32-011 Schedule of laboratory fees.** (~~Effective July 1, 1994.~~) The following fees shall be charged for services performed by the diagnostic laboratory of the laboratory services division, state department of agriculture:

(1) Requests for special scheduling of tests to be conducted within twenty-four hours of sample receipt (STAT testing) will be honored if time and personnel are available. A fifty percent surcharge on all test fees will be charged.

(2) If the owner is a resident of Washington state, the following fees shall apply:

(a) Accession fee for each submission date (per owner)	\$10.00
(b) Bacteriology:	
Aerobic culture (1-3 tissues per animal) each additional animal, <u>same owner</u> , same submission	\$ 7.95 \$ 2.20
Antibiotic sensitivity tests (each organism)	\$ 3.40
Paratuberculosis (Johne's disease) each additional sample in herd, same submission	\$11.35 \$ 3.40
Milk culture - per animal each additional animal in herd, same submission	\$ 7.95 \$ 2.20
Trichomoniasis	\$ 2.80
Campylobacteriosis	\$ 2.80
(c) Serology:	
Food animal:	
Single virus or bacteria (CF, Agglutination, AGID):	
<del>((1st))</del> <u>first</u> animal	\$ 2.80
each additional animal in herd, same submission	\$ 1.10
Companion animals:	
Equine Infectious Anemia (EIA), AGID, each animal	\$ 3.95
Leptospirosis microscopic agglutination	
<del>((1st))</del> <u>first</u> animal ( <u>canine</u> )	\$ 5.65
each additional animal, <u>same owner</u> , same submission	.55
<i>Brucella canis</i> tube agglutination	
<del>((1st))</del> <u>first</u> animal	\$ 5.65
each additional animal, <u>same owner</u> , same submission	.55
<i>Brucella canis</i> slide agglutination	
<del>((1st))</del> <u>first</u> animal	\$ 5.65
each additional animal, <u>same owner</u> , same submission	\$ 3.45
(d) ELISA testing	

Bluetongue (first animal)	\$ 7.45
each additional animal in herd, same submission	\$ 3.70
<u>Bovine leukemia virus (first animal)</u>	<u>\$ 7.45</u>
<u>each additional animal in herd, same submission</u>	<u>\$ 5.00</u>
Equine Infectious Anemia (EIA), each animal	\$10.60
<u>Paratuberculosis (Johne's), first animal</u>	<u>\$ 7.45</u>
<u>each additional animal in herd, same submission</u>	<u>\$ 5.00</u>
(e) Other services and supplies:	
Forwarding of samples to other laboratories	\$ 5.30
Shipping supplies or samples, handling fee each shipment	\$ 3.15
(3) If the owner is an out-of-state resident, the following fees shall apply:	
(a) Accession fee for each submission date (per owner)	\$15.00
(b) Bacteriology:	
Aerobic culture (1-3 tissues per animal) each additional animal, <u>same owner</u> , same submission	\$11.35 \$ 3.40
Antibiotic sensitivity tests (each organism)	\$ 4.50
Paratuberculosis (Johne's disease) each additional sample in herd, same submission	\$17.05 \$ 4.50
Milk culture - per animal each additional animal in herd, same submission	\$11.35 \$ 3.40
Trichomoniasis	\$ 3.95
Campylobacteriosis	\$ 3.95
(c) Serology:	
Food animal:	
Single virus or bacteria (CF, Agglutination, AGID):	
<del>((1st))</del> <u>First</u> animal	\$ 4.50
each additional animal in herd, same submission	\$ 1.10
Companion animal:	
Equine Infectious Anemia (EIA), AGID, each animal	\$ 5.65
Leptospirosis microscopic agglutination	
<del>((1st))</del> <u>first</u> animal ( <u>canine</u> )	\$ 8.50
each additional animal, <u>same owner</u> , same submission	\$ 1.70
<i>Brucella canis</i> tube agglutination	
<del>((1st))</del> <u>first</u> animal	\$ 8.50
each additional animal, <u>same owner</u> , same submission	\$ 1.70

PROPOSED

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<i>Brucella canis</i> slide agglutination	
((††)) first animal	\$ 8.50
each additional animal, <u>same owner</u> , same submission	\$ 5.10
(d) ELISA testing	
Bluetongue (first animal)	\$11.15
each additional animal <u>in herd</u> , same submission	\$ 5.55
<u>Bovine leukemia virus (first animal)</u>	<u>\$11.15</u>
<u>each additional animal in herd, same submission</u>	<u>\$ 7.50</u>
Equine Infectious Anemia (EIA), each animal	\$15.95
<u>Paratuberculosis (Johne's), first animal</u>	<u>\$11.15</u>
<u>each additional animal in herd, same submission</u>	<u>\$ 7.50</u>
(e) Other services and supplies:	
Forwarding of samples to other laboratories	\$ 7.95
Shipping supplies or samples, handling fee each shipment	\$ 4.75

(4) A fee shall be charged by the department for any other analysis, supplies or service not listed in this section. Such fees shall be based on labor costs, supply and material costs, and administrative and overhead costs.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 16-32-009                      Schedule of laboratory fees.

**WSR 98-09-105  
PROPOSED RULES  
EMPLOYMENT SECURITY DEPARTMENT**

[Filed April 22, 1998, 10:24 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 97-16-011.

Title of Rule: WAC 192-12-040 Tax payments by employers, 192-12-041 Application of payments, and 192-12-042 Reports and tax payments subject to penalty.

Purpose: WAC 192-12-040 specifies the intervals for payment of unemployment taxes; WAC 192-12-041 specifies the order in which tax payments will be applied; and WAC 192-12-042 clarifies penalties for late payment or reporting of taxes.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Statute Being Implemented: RCW 43.05.140 and 50.12.220.

Summary: RCW 43.05.140 directs the agency to establish a pilot voluntary audit program. WAC 192-12-042 is

amended to add a request by an employer for a voluntary audit to the good cause reasons for waiver of late penalty. The remainder of the rule, and WAC 192-12-040 and 192-12-041, are rewritten for purposes of clarity and understandability.

Reasons Supporting Proposal: This rule-making action is taken in accordance with Executive Order 97-02 and the department's regulatory improvement plan.

Name of Agency Personnel Responsible for Drafting: Juanita Myers, 212 Maple Park, Olympia, (360) 902-9665; Implementation and Enforcement: Dale Ziegler, 212 Maple Park, Olympia, (360) 902-9303.

Name of Proponent: Employment Security Department, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 192-12-042 clarifies the reports that are subject to penalty, and lists good cause reasons the department may use to grant waiver of penalty, as provided by RCW 50.12.220. The proposed amendment adds a new good cause reason for waiver of penalty.

WAC 192-12-040 and 192-12-041 specify the intervals at which tax payments are due and the order in which payments will be applied. All changes proposed here are of a housekeeping nature only, to update the language of the rules consistent with current terminology and to provide greater clarity and readability.

Proposal Changes the Following Existing Rules: WAC 192-12-042 is amended to add a good cause reason for waiving the penalty for late payment or reporting of taxes. The remainder of the rule, and WAC 192-12-040 and 192-12-041, are rewritten to add clarity and improve understandability.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendments do not add any reporting requirements for businesses. The only substantive change is the addition of a good cause reason allowing for waiver of penalties for late reporting or payment of unemployment taxes. All other changes are housekeeping only, to clarify language.

RCW 34.05.328 applies to this rule adoption. The proposed amendment to WAC 192-12-042 constitutes a significant legislative rule within the meaning of RCW 34.05.328 because, by adding a reason under which the department can waive a penalty for late reporting or payment of taxes, it makes a significant amendment to a regulatory program

Hearing Location: Employment Security Department, 212 Maple Park, 2nd Floor Conference Room, Olympia, WA, on May 27, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Karen LaFreniere, Affirmative Action, by May 22, 1998, TDD (360) 902-9589, or (360) 902-9582.

Submit Written Comments to: Barney Hilliard, Rules Coordinator, Employment Security Department, P.O. Box 9046, Olympia, WA 98504-9046, FAX (360) 438-3226, by May 26, 1998.



Date of Intended Adoption: June 1, 1998.

April 20, 1998  
Carver Gayton  
Commissioner

**AMENDATORY SECTION** (Amending WSR 85-11-038 (Order 1-85), filed 5/15/85)

**WAC 192-12-040** (~~Contributions~~) **Tax payments by employers—RCW 50.24.010.** (~~RCW 50.24.010 provides in part:~~

~~"Contributions shall accrue and become payable by each employer (except employers as described in RCW 50.44.010 who have properly elected to make payments in lieu of contributions and those employers who are required to make payments in lieu of contributions) for each calendar year in which the employer is subject to this title at the rate established pursuant to chapter 50.29 RCW.~~

~~"In each rate year, the amount of wages subject to tax for each individual shall be one hundred fifteen percent of the amount of wages subject to tax for the previous year rounded to the next lower one hundred dollars. *Provided*, That the amount of wages subject to tax in any rate year shall not exceed eighty percent of the average annual wage for contributions purposes' for the second preceding calendar year rounded to the next lower one hundred dollars. *Provided further*, That the amount subject to tax shall be twelve thousand dollars for rate year 1984 and ten thousand dollars for rate year 1985.~~

~~\*\*\*~~

~~"Contributions shall become due and be paid by each employer to the treasurer for the unemployment compensation fund in accordance with such regulations as the commissioner may prescribe, \*\*\*."~~

~~The commissioner accordingly prescribes:)~~

~~(1) (~~Contributions shall become~~) **Taxes are** (~~due and be~~) payable quarterly. (~~and shall reach~~) **Each quarterly payment must include the taxes due on all wages paid during that calendar quarter. Payments are due** at the office of the treasurer (~~not later than~~) by the last day of the month following the end of the calendar quarter for which such (~~contributions~~) **taxes** have accrued. (~~but remittances~~) **Payments** made by mail (~~shall be deemed to have been received timely in the office of the treasurer if they bear a postmark not later than midnight of the last day of such month~~) **are considered paid on the postmarked date.** (~~In the event that~~) If the last day of (~~such~~) **the month** (~~shall~~) falls on a Sunday or a legal holiday, (~~or on a day which the legislature of the state of Washington has determined to be a nonwork day for the employees of the employment security department, then any contributions reaching the office of the treasurer or any duly constituted agent of the employment security department~~) **the tax payment must be received or postmarked** on the next working day (~~shall be deemed to have been received timely. Each quarterly payment shall include contributions accrued upon all wages paid during such quarter~~).~~

~~(2) (~~Whenever any~~) **Tax payments are due immediately when an employer;** (~~shall~~) ceases (~~to do~~) business **or the** (~~or his~~) account (~~with the unemployment compensation~~~~

~~division)) is closed by the department(~~)), is determined by a court to be~~ (~~adjudicated a~~) bankrupt, makes an assignment for the benefit of his **or her** creditors, or goes into receivership, (~~contributions for employment occurring prior to the date thereof shall become immediately due and payable and if~~) **Taxes** not paid immediately (~~shall be~~) **are** delinquent, but interest (~~shall~~) **will** not accrue (~~thereon~~) until the first day of the second month following the end of the calendar quarter for which such (~~contributions~~) **taxes** have accrued.~~

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 80-10-052 (Order 4-80), filed 8/6/80)

**WAC 192-12-041 Application of payments.** (1) A payment received with a (~~contribution~~) **tax** report will be applied to the quarter for which the report is filed. A payment exceeding the legal fees, penalties, interests and (~~contributions~~) **taxes** due for that quarter will be applied to any other (~~indebtedness in the manner~~) **debt as** provided in subsection (2). If no (~~indebtedness~~) **debt** exists, a credit statement will be issued for any overpayments.

(2) A payment received without a (~~contribution~~) **tax** report will be applied in the following order of priority, beginning with the oldest quarter (~~'s indebtedness first~~):

- (a) Lien fees
- (b) Warrant fees
- (c) Late (~~contribution~~) **tax** report penalty
- (d) Late (~~contribution~~) **tax payment** penalty
- (e) Interest charges
- (f) (~~Contributions~~) **Tax payments.**

**AMENDATORY SECTION** (Amending WSR 87-21-002 (Order 5-87), filed 10/8/87)

**WAC 192-12-042 Reports and (~~contributions~~) tax payments subject to penalty.** (1) (~~Contribution~~) **Tax reports.** (~~Any~~) **An** employer who (~~fails to file in a timely and complete manner a contribution~~) **files a late or incomplete tax** report as described in WAC 192-12-030 (~~(2)(a) shall be~~) **is** subject to a penalty of ten dollars per violation, unless (~~such~~) **the** penalty is waived by the (~~commissioner~~) **department.**

(2) (~~Other reports~~) **Report of employee's wages.** Any decision to assess a penalty for (~~the~~) filing (~~of any other report~~) **a late or incomplete report of employee's wages** as described in WAC 192-12-030 (~~in an untimely or incomplete manner shall~~) **will** be made on an individual basis by (~~the commissioner or~~) the chief administrative officer of the tax branch as provided in RCW 50.12.220.

(3) **Delinquent (~~contributions~~) tax payments.** For purposes of RCW 50.12.220 (~~which provides penalties for delinquent contributions~~), (~~contributions will be deemed~~) **tax payments are delinquent** as provided in WAC 192-12-040 and RCW 1.12.070. (~~For contributions due and payable on wages paid prior to July 1, 1987, no penalty so added shall be less than two dollars per quarter~~)

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(4) **Late penalty.** ~~((Effective f) For ((contributions)) tax payments due ((and payable)) on wages paid ((on or after July 1, 1987, and for contribution reports which are due for the quarter ending September 30, 1987 and any subsequent quarters)), a minimum \$10.00 penalty ((shall)) will be assessed for late payments ((as follows:~~

~~(a) A minimum penalty of \$10.00 per quarter shall be assessed against delinquent contributions.~~

~~(b) If no contributions are delinquent for a quarter, a minimum penalty of \$10.00 shall be assessed for a contribution report not filed in a timely manner).~~

(5) **Penalty waivers.** The department may, for good cause, waive penalties in the following ((types of)) situations:

(a) The return was filed on time but inadvertently mailed to another agency;

(b) The delinquency was due to an action of an employee ~~((or an officer))~~ of the ~~((employment security))~~ department, ~~((including but not limited to,))~~ such as providing ~~((erroneous))~~ incorrect information to the employer ~~((in writing or orally))~~ when the source ~~((is identifiable))~~ can be identified, or not furnishing proper forms ~~((in sufficient time))~~ to permit the ~~((timely))~~ filing of tax reports or the ~~((timely))~~ payment of ~~((contributions))~~ taxes on time;

(c) The delinquency was caused by the death or serious illness, before the filing deadline, of the employer, ~~((or))~~ a member of the employer's immediate family, ~~((or illness or death of))~~ the employer's accountant, or a member of the accountant's immediate family ~~((, prior to the filing date))~~.

(d) The delinquency was caused by the accidental destruction ~~((by fire or other casualty))~~ of the employer's place of business or business records.

(e) The department finds the employer to be out of compliance during an employer-requested audit, but the department determines the employer made a good faith effort to comply with all applicable laws and rules.

(6) **Waiver requests.** A request for a waiver of penalties must ~~((B))~~ be ~~((in letter form))~~ written, contain all pertinent facts, be accompanied by ~~((such))~~ available proof, ~~((as may be available))~~ and be filed through a tax office. In all cases the burden of proving the facts is ~~((upon))~~ on the employer.

(7) **Extensions.** The department, for good cause, may extend the due date for filing a report. ~~((Any extension will be conditioned upon deposit by t))~~ The employer must make a deposit with the department ~~((of))~~ in an amount equal to the estimated tax liability for the reporting period or periods for which the extension is granted. This deposit will be credited to the employer's account and ~~((will be))~~ applied to the employer's ~~((indebtedness))~~ debt. The amount of the deposit is subject to ~~((departmental))~~ approval by the department.

Title of Rule: WAC 192-12-030 Employer reports.

Purpose: The rule lists the reports that must be filed by employers and the intervals or time frames for filing them.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, and 50.12.070.

Statute Being Implemented: RCW 50.12.070, 50.20.150.

Summary: The rule is amended to eliminate six employer reports that are obsolete and no longer needed by the department. The remainder of the rule is rewritten for purposes of clarity and understandability.

Reasons Supporting Proposal: This rule-making action is taken in accordance with Executive Order 97-02 and the department's regulatory improvement plan.

Name of Agency Personnel Responsible for Drafting: Juanita Myers, 212 Maple Park, Olympia, (360) 902-9665; Implementation and Enforcement: Dale Ziegler, 212 Maple Park, Olympia, (360) 902-9303.

Name of Proponent: Employment Security Department, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 192-12-030 lists the reports that must be filed by employers with the department, and the intervals for filing such reports. RCW 50.12.070 requires employers to maintain certain records, but authorizes the department to adopt rules specifying the information that must be contained in the records and the intervals at which such information is reported to the department. This rule provides that information.

Proposal Changes the Following Existing Rules: WAC 192-12-030 is amended to eliminate six obsolete employer reports. In addition, the remainder of the rule is rewritten to add clarity and improve understandability.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not add any reporting requirements for businesses. Six reports formerly required of employers are eliminated as obsolete. The rule simply clarifies the information that, by statute, must be reported to the department.

RCW 34.05.328 applies to this rule adoption. The proposed amendment to WAC 192-12-030 constitutes a significant legislative rule within the meaning of RCW 34.05.328 because, by eliminating six employer reports, it makes a significant amendment to a regulatory program.

Hearing Location: Employment Security Department, 212 Maple Park, 2nd Floor Conference Room, Olympia, WA, on May 27, 1998, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Karen LaFreniere, Affirmative Action, by May 22, 1998, TDD (360) 902-9589, or (360) 902-9582.

Submit Written Comments to: Barney Hilliard, Rules Coordinator, Employment Security Department, P.O. Box 9046, Olympia, WA 98504-9046, FAX (360) 438-3226, by May 26, 1998.

WSR 98-09-106

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed April 22, 1998, 10:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-21-131.

Date of Intended Adoption: June 1, 1998.

April 20, 1998  
Carver Gayton  
Commissioner

AMENDATORY SECTION (Amending WSR 94-22-043, filed 10/28/94, effective 11/28/94)

WAC 192-12-030 Employer reports ~~((required of persons or entities for whom personal services are performed as provided by))~~ = RCW 50.12.070 and 50.20.150. (1) ~~((Employer's status report))~~ Master application. Every person or entity which has ~~((or subsequent to January 1, 1936, had))~~ one or more individuals performing services for it in the state of Washington ~~((shall have on))~~ must file with the ~~((commissioner immediately after the date of this regulation an employer's status report))~~ department a master application in a format prescribed by the commissioner.

(2) ~~((Contribution and wage))~~ Quarterly tax and wage reports:

(a) ~~((Contribution))~~ Tax report. Each employer ~~((shall not later than the last day of the month following the expiration of any calendar quarter))~~ must file a quarterly tax report with the commissioner ~~((, in a format which the commissioner shall prescribe, a report with respect to such quarter setting forth))~~ listing the total wages paid ((for employment)) to all individuals in its employ during that calendar quarter. ((Calendar quarters shall be deemed to end March 31, June 30, September 30 and December 31 respectively of each year.))

(b) ~~((Wage))~~ Report of employee's wages. Each employer ~~((shall not later than the last day of the month following the expiration of such calendar quarter))~~ must file a quarterly report of employee's wages with the commissioner ~~((, on forms which the commissioner shall furnish, a report with respect to such calendar quarter setting forth the))~~ This report must list each employee by name, social security number, hours worked, and wages paid during ((such)) that calendar quarter, ((for employment to individual in its employ, the number of hours worked by each individual, the names of such individuals and their social security numbers. Exceptions to the foregoing provisions (2)(a) and (b) relative to the time and manner of reporting shall be allowed only after application has been made requesting exceptions and the application has been approved by the commissioner.))

(c) The quarterly tax and wage reports must be filed in a format prescribed by the commissioner. They are due by the last day of the month following the end of the calendar quarter being reported. Calendar quarters end on March 31, June 30, September 30 and December 31 of each year. Therefore, reports are due by April 30, July 31, October 31, and January 31, respectively. Exceptions to the time and manner of filing the report must be approved in advance the commissioner.

(d) Termination of business. Each employer who ceases business or ~~((for any reason causes its))~~ whose account ((to be)) is closed by the department ~~((shall))~~ must immediately file:

(i) A ~~((contribution))~~ tax report ((with respect to)) for the current calendar quarter which ~~((report shall))~~ covers ~~((con-~~

tributions)) tax payments due to the date such account is closed;

(ii) A ~~((quarterly wage))~~ report of employee's wages ((with respect to)) for the current calendar quarter ~~((as provided in section (2)(b) of this regulation))~~ which ~~((report shall))~~ includes all wages paid to the date such account is closed.

~~((d))~~ Reports for maritime service:

(i) ~~Maritime contribution reports~~. ~~Contribution reports with respect to wages, including advances, allotments, slops, and payment in kind, such as board and lodging, earned in any pay period shall be submitted as of the calendar quarter in which any such wages in cash were actually paid or such wages in kind were furnished, except that any of such items which are unknown to the reporting office will be considered paid in the calendar quarter in which the voyage is terminated.~~

(ii) ~~Maritime wage reports~~. ~~Individual wage detail reports on wages falling within the purview of this regulation need not be filed prior to the time when reports regarding wages paid at the termination of such period must be filed; except, however, supplemental quarterly wage detail reports shall be filed whenever wages involved were actually paid in a previous calendar quarter. such supplemental report shall be filed along with the related contribution report.~~

(iii) ~~Maritime special reports~~. ~~The employer shall, upon request of the commissioner, promptly furnish a statement of the wages of a seaman, whenever such statement is necessary in order to determine such seaman's eligibility for and rate of benefits. Such statements shall be prepared and submitted in such a manner as the commissioner may in each case prescribe.))~~

(3) Report of circumstances of applicant's separation from employment. Whenever an individual files an initial application for ~~((an initial determination or thereafter lapses his or her reporting at the local office and later renews such reporting following intervening employment,))~~ unemployment benefits, or reopens a claim after subsequent employment, a notice ((of such filing or renewal shall)) will be mailed to the applicant's most recent ((employing unit)) employer as stated by the applicant. Any ((employing unit receiving)) employer who receives such a notice and ((having knowledge of any factors)) has information which might ((render)) make the applicant ineligible for ((waiting period credit or)) benefits shall report ((such factors)) this information to the employment security department at the address indicated on the notice within ten days of the date ~~((of mailing of such))~~ the notice was mailed. ((The absence of the receipt of the employing unit's report within the ten day period shall be deemed to justify allowances to the applicant of waiting period credit and the payment of benefits, provided the applicant is in all respects eligible.)) If the employer does not reply within ten days, the department may allow benefits to the individual, if he or she is otherwise eligible.

~~((In the event that information reported by an employing unit, in response to either of the notices required herein, is claimed by the employing unit to require disqualification from allowance of waiting period credit or payment of bene-~~

~~fits, a determination of benefit rights will be made and a copy of such determination mailed to the employing unit.))~~

If an employer reports information which it claims makes an individual ineligible for benefits, the department will issue a written decision regarding the individual's eligibility and mail a copy to the employer.

~~(4) ((Low earnings report. When requested to do so by an authorized representative of the commissioner any person or entity for whom personal services are performed by individuals working less than full time during a "week" as defined in WAC 192-12-020 wit resulting loss of earnings, to wit: Less than the maximum weekly benefit amount established by law, shall thereafter file with the nearest employment office, in a format prescribed by the commissioner, a report of low earnings with respect to such individuals for all weeks designated in the request.~~

~~(5) Labor dispute report. When any person or entity for whom personal services are performed has substantially curtailed or stopped operation by reason of a labor dispute or should such person or entity have reason to believe that such substantial curtailment or stoppage is due to a labor dispute, it shall advise the nearest employment office in writing of the date of the commencement of such substantial curtailment or stoppage of operations and upon the demand of the commissioner shall furnish, upon forms furnished by the commissioner, a report setting out the conditions under which such substantial curtailment or stoppage of operations occurred, together with the names, social security account numbers and job classifications of the individuals involved. Changes in the condition under which the labor dispute arose or in the status of any such individuals, occurring during the course of the dispute, shall be reported in the same manner.~~

~~Subsequent to the termination of the labor dispute, such person or entity shall advise the nearest employment service office in writing of the date of the termination of the labor dispute.~~

~~(6) Vacation reports. Each employer temporarily ceasing or substantially curtailing operations in order to allow a vacation period for individuals in its employ pursuant to an employment contract shall seven days prior to cessation or substantial curtailment of operations file with the nearest employment office a report giving the date of commencement and duration of the vacation period and shall further, upon the demand of the commissioner, furnish a report setting forth (a) the name of each individual ceasing work by reason of such cessation or curtailment of operations; (b) each individual's Social Security account number; (c) the amount of wages or remuneration, if any, paid or payable to each individual for the vacation period; and (d) the identity of such individuals who have been or will be granted vacations during some other period.~~

~~(7)) (4) Report form instructions. All form preparation instructions issued by the employment security department ((for the preparation of forms or formats shall)) have the same force and effect as if ((such instructions)) they had been incorporated into ((and made a part of)) this regulation.~~

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

**WSR 98-09-108  
PROPOSED RULES  
DEPARTMENT OF HEALTH**

[Filed April 22, 1998, 11:16 a.m.]

Original Notice.

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

Title of Rule: Medical use of radioactive material; radiopharmacy and patient release.

Purpose: To amend numerous sections to bring radiation protection regulations into conformance with the United States Nuclear Regulatory Commission rules on the medical use of radioactive material, radiopharmacy, and patient release criteria. Housekeeping changes are also made to break up one particularly long section into seven more manageable sections with corresponding editorial changes to adjust cross-referencing. Office phone numbers and mailing addresses are also updated.

Statutory Authority for Adoption: RCW 70.98.050.

Statute Being Implemented: RCW 70.98.050.

Summary: The proposed rule updates requirements for the medical use of radioactive materials (WAC 246-235-100, 246-239-010, 246-239-022, 246-239-025, 246-240-010, 246-240-015, and 246-240-050), adds provisions for radiopharmacy (WAC 246-235-080, 246-235-120, 246-239-010, 246-239-040, and 246-240-010), adds patient release criteria (WAC 246-221-130, 246-239-055, 246-240-020, and 246-240-025), amends dose related definitions and limits to account for patients released from confinement (WAC 246-220-010, 246-221-001, and 246-221-060), converts subsections of one very long section into new sections (WAC 246-235-091, 246-235-093, 246-235-095, 246-235-097, 246-235-102, and 246-235-105), corrects cross-referencing for the new sections (WAC 246-232-010, 246-233-010, 246-233-020, 246-235-020, and 246-235-090) and updates phone numbers and mailing address information (WAC 246-221-250, 246-222-080, 246-232-040, 246-244-240, and 246-247-010).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Terry C. Frazee, Tumwater, (360) 236-3221.

Name of Proponent: Division of Radiation Protection, Department of Health, governmental.

Rule is necessary because of federal law, 59 FR 61767, 60 FR 322, 60 FR 48623, and 62 FR 4120.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule updates the requirements for the medical uses of radioactive material, adds provisions for nuclear pharmacy, and sets release criteria associated with patients administered radioactive material in order to be consistent with the federal rules governing the same areas. These changes are required for compatibility with the United States Nuclear Regulatory Commission. In addition, one extremely long section, that is being amended for the medical use rule,

is being broken up into shorter, more manageable sections. The anticipated effect of these changes is to bring our radioactive materials licensees into conformance with nationwide practices and to make it easier to use the regulations particularly for physicians and nuclear pharmacists transferring from other states to practices here.

Proposal Changes the Following Existing Rules: WAC 246-220-010 is amended to update definitions of occupational dose and public dose; WAC 246-221-001 is amended to exempt released patients; WAC 246-221-060 is amended to exclude doses received as a patient from the dose limits; WAC 246-221-130 is amended to eliminate a posting requirement if a hospitalized patient could be released otherwise; WAC 246-221-250 and 246-222-080 are amended to update a phone number; WAC 246-232-010, 246-233-010, 246-233-020, 246-235-020, and 246-235-090 are amended to correct cross-referencing; WAC 246-232-040 is amended to update a mailing address and a phone number; WAC 246-235-080 is amended to update medical use requirements and to correct cross-referencing; WAC 246-235-100 is amended to update medical use requirements and to move lengthy subsections to separate new sections; WAC 246-235-120 is amended to meet federal requirements for medical use and radiopharmacy; WAC 246-239-010 is amended to meet federal requirements for medical uses, radiopharmacy, and reporting of misadministrations; WAC 246-239-022 is amended to meet federal requirements for licensee reviews of administrations; WAC 246-239-025 is amended to update notification requirements for misadministrations; WAC 246-239-040 is amended to meet federal requirements for medical use and radiopharmacy and to correct cross-referencing; WAC 246-240-010 is amended to meet federal requirements for medical uses and reporting of misadministrations; WAC 246-240-015 is amended to meet federal requirements for licensee reviews of administrations; WAC 246-240-020 is amended to update patient release surveys; WAC 246-240-050 is amended to update the notification requirement; and WAC 246-244-240 and 246-247-010 are amended to correct phone numbers.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules adopt federal regulations without material change or address housekeeping measures as described under RCW 34.05.310(4). RCW 19.85.025 provides that chapter 19.85 RCW does not apply to the adoption of a rule described in RCW 34.05.310(4). This rule conforms to federal rule changes for which "regulatory flexibility certifications" were prepared stating that the "rule will not have a significant economic impact upon a substantial number of small entities."

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This rule change (beyond housekeeping measures) is for conformance with the United States Nuclear Regulatory Commission regulations and are mandatory under our agreement state status with the federal government. No material changes from the federal regulations are proposed.

Hearing Location: Department of Health, Division of Radiation Protection, Airstrip Center, Building 5, Tumwater, Washington, on May 27, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Terry Frazee by May 26, 1998, TDD (800) 833-6388, or FAX (360) 236-2255.

Submit Written Comments to: Terry C. Frazee, P.O. Box 47827, Olympia, WA 98504-7827, FAX (360) 236-2255, by May 27, 1997 [1998].

Date of Intended Adoption: June 3, 1998.

April 20, 1998  
Bruce Miyahara  
Secretary

**AMENDATORY SECTION** (Amending WSR 95-01-108, filed 12/21/94, effective 1/21/95)

**WAC 246-220-010 Definitions.** As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain part will be found in that part.

(1) "A<sub>1</sub>" means the maximum activity of special form radioactive material permitted to be transported in a Type A package. "A<sub>2</sub>" means the maximum activity of normal form radioactive material permitted to be transported in a Type A package. A<sub>1</sub> and A<sub>2</sub> values are assigned to individual radionuclides and are tabulated in WAC 246-220-110, Appendix A. Methods of calculating values are also given.

(2) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

(3) "Accelerator produced material" means any material made radioactive by exposing it in a particle accelerator.

(4) "Act" means Nuclear energy and radiation, chapter 70.98 RCW.

(5) "Activity" means the rate of disintegration or transformation or decay of radioactive material. The units of activity are the becquerel (Bq) and the curie (Ci).

(6) "Adult" means an individual eighteen or more years of age.

(7) "Agreement state" means any state with which the United States Nuclear Regulatory Commission has entered into an effective agreement under section 274 b. of the Atomic Energy Act of 1954, as amended (73 Stat. 689).

(8) "Airborne radioactive material" means any radioactive material dispersed in the air in the form of particulates, dusts, fumes, mists, vapors, or gases.

(9) "Airborne radioactivity area" means a room, enclosure, or operating area in which airborne radioactive material exists in concentrations (a) in excess of the derived air concentration (DAC) specified in WAC 246-221-290, Appendix A, or (b) to such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or twelve DAC-hours.

(10) "Alert" means events may occur, are in progress, or have occurred that could lead to a release of radioactive material but that the release is not expected to require a response by offsite response organizations to protect persons offsite.

(11) "Annual limit on intake" (ALI) means the derived limit for the amount of radioactive material taken into the

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body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the reference man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in WAC 246-221-290.

(12) "Background radiation" means radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices. "Background radiation" does not include sources of radiation from radioactive materials regulated by the department.

(13) "Becquerel" (Bq) means the SI unit of activity. One becquerel is equal to 1 disintegration or transformation per second ( $s^{-1}$ ).

(14) "Bioassay" means the determination of kinds, quantities or concentrations, and, in some cases, the locations of radioactive material in the human body, whether by direct measurement, in vivo counting, or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these regulations, "radiobioassay" is an equivalent term.

(15) "Byproduct material" means: (a) Any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material, and (b) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute "byproduct material" within this definition.

(16) "Calendar quarter" means not less than twelve consecutive weeks nor more than fourteen consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar quarters shall be so arranged such that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. No licensee or registrant shall change the method of determining calendar quarters for purposes of these regulations except at the beginning of a calendar year.

(17) "Calibration" means the determination of (a) the response or reading of an instrument relative to a series of known radiation values over the range of the instrument, or (b) the strength of a source of radiation relative to a standard.

(18) "CFR" means Code of Federal Regulations.

(19) "Class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: For Class D, Days, of less than ten days, for Class W, Weeks, from ten to one hundred days, and for Class Y, Years, of greater than one hundred days. For purposes of these regulations, "lung class" and "inhalation class" are equivalent terms. For "class of waste" see WAC 246-249-040.

(20) "Collective dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

(21) "Committed dose equivalent" ( $H_{T,50}$ ) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the fifty-year period following the intake.

(22) "Committed effective dose equivalent" ( $H_{E,50}$ ) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues ( $H_{E,50} = \sum w_T H_{T,50}$ ).

(23) "Controlled area." See "Restricted area."

(24) "Curie" means a unit of quantity of radioactivity. One curie (Ci) is that quantity of radioactive material which decays at the rate of  $3.7 \times 10^{10}$  transformations per second (tps).

(25) "Declared pregnant woman" means a woman who has voluntarily informed her employer, in writing, of her pregnancy, and her estimated date of conception.

(26) "Deep dose equivalent" ( $H_d$ ), which applies to external whole body exposure, means the dose equivalent at a tissue depth of 1 centimeter ( $1000 \text{ mg/cm}^2$ ).

(27) "Department" means the department of health, division of radiation protection, which has been designated as the state radiation control agency.

(28) "Depleted uranium" means the source material uranium in which the isotope Uranium-235 is less than 0.711 percent by weight of the total uranium present. Depleted uranium does not include special nuclear material.

(29) "Derived air concentration" (DAC) means the concentration of a given radionuclide in air which, if breathed by the reference man for a working year of two thousand hours under conditions of light work, results in an intake of one ALI. For purposes of these regulations, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for two thousand hours in a year. DAC values are given in WAC 246-221-290.

(30) "Derived air concentration-hour" (DAC-hour) means the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee or registrant may take two thousand DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

(31) "Dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these regulations, "radiation dose" is an equivalent term.

(32) "Dose commitment" means the total radiation dose to a part of the body that will result from retention in the body of radioactive material. For purposes of estimating the dose commitment, it is assumed that from the time of intake the period of exposure to retained material will not exceed fifty years.

(33) "Dose equivalent ( $H_T$ )" means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem.

(34) "Dose limits" means the permissible upper bounds of radiation doses established in accordance with these regulations. For purposes of these regulations, "limits" is an equivalent term.

(35) "Dosimetry processor" means a person that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to the monitoring devices.

(36) "dpm" means disintegrations per minute. See also "curie."

(37) "Effective dose equivalent ( $H_E$ )" means the sum of the products of the dose equivalent to each organ or tissue ( $H_T$ ) and the weighting factor ( $w_T$ ) applicable to each of the body organs or tissues that are irradiated ( $H_E = \sum w_T H_T$ ).

(38) "Embryo/fetus" means the developing human organism from conception until the time of birth.

(39) "Entrance or access point" means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, without respect to their intended use.

(40) "Exposure" means (a), when used as a verb, being exposed to ionizing radiation or to radioactive material, or (b), when used as a noun, the quotient of  $\Delta Q$  by  $\Delta m$  where " $\Delta Q$ " is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass " $\Delta m$ " are completely stopped in air. The special unit of exposure is the roentgen (R) and the SI equivalent is the coulomb per kilogram. One roentgen is equal to  $2.58 \times 10^{-4}$  coulomb per kilogram of air.

(41) "Exposure rate" means the exposure per unit of time, such as roentgen per minute and milliroentgen per hour.

(42) "External dose" means that portion of the dose equivalent received from any source of radiation outside the body.

(43) "Extremity" means hand, elbow, arm below the elbow, foot, knee, and leg below the knee.

(44) "Eye dose equivalent" means the external dose equivalent to the lens of the eye at a tissue depth of 0.3 centimeter ( $300 \text{ mg/cm}^2$ ).

(45) "Former United States Atomic Energy Commission (AEC) or United States Nuclear Regulatory Commission (NRC) licensed facilities" means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

(46) "Generally applicable environmental radiation standards" means standards issued by the United States Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(47) "Gray" (Gy) means the SI unit of absorbed dose. One gray is equal to an absorbed dose of 1 joule/kilogram (100 rad).

(48) "Healing arts" means the disciplines of medicine, dentistry, osteopathy, chiropractic, podiatry, and veterinary medicine.

(49) "High radiation area" means any area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 1 mSv (0.1 rem) in one hour at 30 centimeters from any source of radiation or from any surface that the radiation penetrates. For purposes of these regulations, rooms or areas in which diagnostic x-ray systems are used for healing arts purposes are not considered high radiation areas.

(50) "Highway route controlled quantity" means a quantity of radioactive material in a single package which exceeds:

- (a) 3,000 times the  $A_1$  or  $A_2$  quantity as appropriate; or
- (b) 30,000 curies, whichever is less.

(51) "Human use" means the intentional internal or external administration of radiation or radioactive material to human beings.

(52) "Immediate" or "immediately" means as soon as possible but no later than four hours after the initiating condition.

(53) "IND" means investigatory new drug for which an exemption has been claimed under the United States Food, Drug and Cosmetic Act (Title 21 CFR).

(54) "Individual" means any human being.

(55) "Individual monitoring" means the assessment of:

- (a) Dose equivalent (i) by the use of individual monitoring devices or (ii) by the use of survey data; or
- (b) Committed effective dose equivalent (i) by bioassay or (ii) by determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours.

(56) "Individual monitoring devices" means devices designed to be worn by a single individual for the assessment of dose equivalent. For purposes of these regulations, individual monitoring equipment, personnel monitoring device, personnel dosimeter, and dosimeter are equivalent terms. Examples of individual monitoring devices are film badges, thermoluminescent dosimeters (TLDs), pocket ionization chambers, and personal air sampling devices.

(57) "Inspection" means an official examination or observation by the department including but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements and conditions of the department.

(58) "Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

(59) "Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

(60) "Irretrievable source" means any sealed source containing licensed material which is pulled off or not connected to the wireline downhole and for which all reasonable effort

at recovery, as determined by the department, has been expended.

(61) "License" means a license issued by the department in accordance with the regulations adopted by the department.

(62) "Licensed material" means radioactive material received, possessed, used, transferred, or disposed under a general or specific license issued by the department.

(63) "Licensee" means any person who is licensed by the department in accordance with these regulations and the act.

(64) "Licensing state" means any state with regulations equivalent to the suggested state regulations for control of radiation relating to, and an effective program for, the regulatory control of NARM and which has been granted final designation by the Conference of Radiation Control Program Directors, Inc.

(65) "Lost or missing licensed material" means licensed material whose location is unknown. This definition includes licensed material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

(66) "Major processor" means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material, or exceeding four times Type B quantities as sealed sources, but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in Section 71.4 of 10 CFR Part 71.

(67) "Member of the public" means an individual except when the individual is receiving an occupational dose.

(68) "Minor" means an individual less than eighteen years of age.

(69) "Monitoring" means the measurement of radiation, radioactive material concentrations, surface area activities or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these regulations, radiation monitoring and radiation protection monitoring are equivalent terms.

(70) "NARM" means any naturally occurring or accelerator-produced radioactive material. It does not include by-product, source, or special nuclear material. For the purpose of meeting the definition of a Licensing State by the Conference of Radiation Control Program Directors, Inc. (CRCPD), NARM refers only to discrete sources of NARM. Diffuse sources of NARM are excluded from consideration by the CRCPD for Licensing State designation purposes.

(71) "Natural radioactivity" means radioactivity of naturally occurring nuclides.

(72) "NDA" means a new drug application which has been submitted to the United States Food and Drug Administration.

(73) "Nonstochastic effect" means a health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these regulations, a "deterministic effect" is an equivalent term.

(74) "Normal form radioactive material" means radioactive material which has not been demonstrated to qualify as "special form radioactive material."

(75) "Nuclear Regulatory Commission" (NRC) means the United States Nuclear Regulatory Commission or its duly authorized representatives.

(76) "Nuclear waste" as used in WAC 246-232-090(5) means any quantity of source or byproduct material, (not including radiography sources being returned to the manufacturer) required to be in Type B packaging while transported to, through, or across state boundaries to a disposal site, or to a collection point for transport to a disposal site. Nuclear waste, as used in these regulations, is a special classification of radioactive waste.

(77) "Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties involve exposure to radiation or to radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee, registrant, or other person. Occupational dose does not include dose received: From background radiation, (~~as a patient from medical practices~~) from any medical administration the individual has received, from exposure to individuals administered radioactive material and released pursuant to chapters 246-239 and 246-240 WAC, from voluntary participation in medical research programs, or as a member of the public.

(78) "Ore refineries" means all processors of a radioactive material ore.

(79) "Package" means the packaging together with its radioactive contents as presented for transport.

(80) "Particle accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 MeV.

(81) "Permittee" means a person who has applied for, and received, a valid site use permit for use of the low-level waste disposal facility at Hanford, Washington.

(82) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent or agency of the foregoing, but shall not include federal government agencies.

(83) "Personal supervision" means supervision such that the supervisor is physically present at the facility and in such proximity that contact can be maintained and immediate assistance given as required.

(84) "Personnel monitoring equipment." See individual monitoring devices.

(85) "Pharmacist" means an individual licensed by this state to compound and dispense drugs, and poisons.

(86) "Physician" means an individual licensed by this state to prescribe and dispense drugs in the practice of medicine.

(87) "Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

(88) "Practitioner" means an individual licensed by the state in the practice of a healing art (i.e., physician, dentist, podiatrist, chiropractor, etc.).

(89) "Public dose" means the dose received by a member of the public from exposure to sources of radiation under the



licensee's or registrant's control or to radiation or radioactive material released by the licensee. ~~((It))~~ **Public dose** does not include occupational dose ~~((dose))~~ or doses received from background radiation, ~~((dose received as a patient from medical practices))~~ **from any medical administration the individual has received, from exposure to individuals administered radioactive material and released pursuant to chapters 246-239 and 246-240 WAC, or ((dose received))** from voluntary participation in medical research programs.

(90) "Qualified expert" means an individual who has demonstrated to the satisfaction of the department he/she has the knowledge, training, and experience to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs. The department reserves the right to recognize the qualifications of an individual in specific areas of radiation protection.

(91) "Quality factor" (Q) means the modifying factor, listed in Tables I and II, that is used to derive dose equivalent from absorbed dose.

TABLE I  
QUALITY FACTORS AND ABSORBED DOSE EQUIVALENCIES

TYPE OF RADIATION	Quality Factor (Q)	Absorbed Dose Equal to A Unit Dose Equivalent <sup>a</sup>
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X, gamma, or beta radiation and high-speed electrons	1	1
Alpha particles, multiple-charged particles, fission fragments and heavy particles of unknown charge	20	0.05
Neutrons of unknown energy	10	0.1
High-energy protons	10	0.1

<sup>a</sup> Absorbed dose in rad equal to 1 rem or the absorbed dose in gray equal to 1 Sv.

If it is more convenient to measure the neutron fluence rate rather than to determine the neutron dose equivalent rate in sievert per hour or rem per hour as required for Table I, then 0.01 Sv (1 rem) of neutron radiation of unknown energies may, for purposes of these regulations, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee or registrant may use the fluence rate per unit dose equivalent or the appropriate Q value from Table II to convert a measured tissue dose in gray or rad to dose equivalent in sievert or rem.

TABLE II

MEAN QUALITY FACTORS, Q, AND FLUENCE PER UNIT DOSE EQUIVALENT FOR MONOENERGETIC NEUTRONS

Neutron Energy (MeV)	Quality Factor <sup>a</sup> (Q)	Fluence per Unit Dose Equivalent <sup>b</sup> (neutrons cm <sup>-2</sup> rem <sup>-1</sup> )	Fluence per Unit Dose Equivalent <sup>b</sup> (neutrons cm <sup>-2</sup> Sv <sup>-1</sup> )
(thermal) 2.5 x 10 <sup>-8</sup>	2	980 x 10 <sup>6</sup>	980 x 10 <sup>8</sup>
1 x 10 <sup>-7</sup>	2	980 x 10 <sup>6</sup>	980 x 10 <sup>8</sup>
1 x 10 <sup>-6</sup>	2	810 x 10 <sup>6</sup>	810 x 10 <sup>8</sup>
1 x 10 <sup>-5</sup>	2	810 x 10 <sup>6</sup>	810 x 10 <sup>8</sup>
1 x 10 <sup>-4</sup>	2	840 x 10 <sup>6</sup>	840 x 10 <sup>8</sup>
1 x 10 <sup>-3</sup>	2	980 x 10 <sup>6</sup>	980 x 10 <sup>8</sup>
1 x 10 <sup>-2</sup>	2.5	1010 x 10 <sup>6</sup>	1010 x 10 <sup>8</sup>
1 x 10 <sup>-1</sup>	7.5	170 x 10 <sup>6</sup>	170 x 10 <sup>8</sup>
5 x 10 <sup>-1</sup>	11	39 x 10 <sup>6</sup>	39 x 10 <sup>8</sup>
1	11	27 x 10 <sup>6</sup>	27 x 10 <sup>8</sup>
2.5	9	29 x 10 <sup>6</sup>	29 x 10 <sup>8</sup>
5	8	23 x 10 <sup>6</sup>	23 x 10 <sup>8</sup>

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7	7	$24 \times 10^6$	$24 \times 10^8$
10	6.5	$24 \times 10^6$	$24 \times 10^8$
14	7.5	$17 \times 10^6$	$17 \times 10^8$
20	8	$16 \times 10^6$	$16 \times 10^8$
40	7	$14 \times 10^6$	$14 \times 10^8$
60	5.5	$16 \times 10^6$	$16 \times 10^8$
$1 \times 10^2$	4	$20 \times 10^6$	$20 \times 10^8$
$2 \times 10^2$	3.5	$19 \times 10^6$	$19 \times 10^8$
$3 \times 10^2$	3.5	$16 \times 10^6$	$16 \times 10^8$
$4 \times 10^2$	3.5	$14 \times 10^6$	$14 \times 10^8$

<sup>a</sup> Value of quality factor (Q) at the point where the dose equivalent is maximum in a 30-cm diameter cylinder tissue-equivalent phantom.

<sup>b</sup> Monoenergetic neutrons incident normally on a 30-cm diameter cylinder tissue-equivalent phantom.

(92) "Quarter" means a period of time equal to one-fourth of the year observed by the licensee, approximately thirteen consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(93) "Rad" means the special unit of absorbed dose. One rad equals one-hundredth of a joule per kilogram of material; for example, if tissue is the material of interest, then 1 rad equals 100 ergs per gram of tissue. One rad is equal to an absorbed dose of 100 erg/gram or 0.01 joule/kilogram (0.01 gray).

(94) "Radiation" means alpha particles, beta particles, gamma rays, x-rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. For purposes of these regulations, ionizing radiation is an equivalent term. Radiation, as used in these regulations, does not include magnetic fields or nonionizing radiation, such as radiowaves or microwaves, visible, infrared, or ultraviolet light.

(95) "Radiation area" means any area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in one hour at thirty centimeters from the source of radiation or from any surface that the radiation penetrates.

(96) "Radiation machine" means any device capable of producing ionizing radiation except those devices with radioactive materials as the only source of radiation.

(97) "Radiation safety officer" means an individual who has the knowledge and responsibility to apply appropriate radiation protection regulations and has been assigned such responsibility by the licensee or registrant.

(98) "Radiation source." See "Source of radiation."

(99) "Radioactive material" means any material (solid, liquid, or gas) which emits radiation spontaneously.

(100) "Radioactive waste" means any radioactive material which is no longer of use and intended for disposal or treatment for the purposes of disposal.

(101) "Radioactivity" means the transformation of unstable atomic nuclei by the emission of radiation.

(102) "Reference man" means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base.

(103) "Registrable item" means any radiation machine except those exempted by RCW 70.98.180 or exempted by the department pursuant to the authority of RCW 70.98.080.

(104) "Registrant" means any person who is registered by the department or is legally obligated to register with the department in accordance with these regulations and the act.

(105) "Registration" means registration with the department in accordance with the regulations adopted by the department.

(106) "Regulations of the United States Department of Transportation" means the regulations in 49 CFR Parts 170-189, 14 CFR Part 103, and 46 CFR Part 146.

(107) "Rem" means the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 Sv).

(108) "Research and development" means: (a) Theoretical analysis, exploration, or experimentation; or (b) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

(109) "Respiratory protective equipment" means an apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

(110) "Restricted area" means any area to which access is limited by the licensee or registrant for purposes of protecting individuals against undue risks from exposure to radiation and radioactive material. "Restricted area" shall not include any areas used for residential quarters, although a separate room or rooms in a residential building may be set apart as a restricted area.

(111) "Roentgen" (R) means the special unit of exposure. One roentgen equals  $2.58 \times 10^{-4}$  coulombs/kilogram of air.

(112) "Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee or registrant.

(113) "Sealed source" means any device containing radioactive material to be used as a source of radiation which has been constructed in such a manner as to prevent the escape of any radioactive material.

(114) "Shallow dose equivalent" ( $H_s$ ), which applies to the external exposure of the skin or an extremity, means the dose equivalent at a tissue depth of 0.007 centimeter ( $7 \text{ mg/cm}^2$ ) averaged over an area of 1 square centimeter.

(115) "SI" means an abbreviation of the International System of Units.

(116) "Sievert" means the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor ( $1 \text{ Sv} = 100 \text{ rem}$ ).

(117) "Site area emergency" means events may occur, are in progress, or have occurred that could lead to a significant release of radioactive material and that could require a response by offsite response organizations to protect persons offsite.

(118) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

(119) "Source container" means a device in which radioactive material is transported or stored.

(120) "Source material" means: (a) Uranium or thorium, or any combination thereof, in any physical or chemical form, or (b) ores which contain by weight one-twentieth of one percent (0.05 percent) or more of (i) uranium, (ii) thorium, or (iii) any combination thereof. Source material does not include special nuclear material.

(121) "Source material milling" means the extraction or concentration of uranium or thorium from any ore processing primarily for its source material content.

(122) "Source of radiation" means any radioactive material, or any device or equipment emitting or capable of producing ionizing radiation.

(123) "Special form radioactive material" means radioactive material which satisfies the following conditions:

(a) It is either a single solid piece or is contained in a sealed capsule that can only be opened by destroying the capsule;

(b) The piece or capsule has at least one dimension not less than five millimeters (0.197 inch); and

(c) It satisfies the test requirements specified by the United States Nuclear Regulatory Commission. A special form encapsulation designed in accordance with the United States Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation either designed or constructed after June 30, 1985, must meet requirements of this definition applicable at the time of its design or construction.

(124) "Special nuclear material" means:

(a) Plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the United States Nuclear Regulatory Commission, pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(b) Any material artificially enriched in any of the foregoing, but does not include source material.

(125) "Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope U-235 in quantities not exceeding three hundred fifty grams of contained U-235; Uranium-233 in quantities not exceeding two hundred grams; Plutonium in quantities not exceeding two hundred grams; or any combination of them in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination shall not exceed "1" (i.e., unity). For example, the following quantities in combination would not exceed the limitation and are within the formula:

$$\frac{175(\text{grams contained U-235})}{350} + \frac{50(\text{grams U-233})}{200} + \frac{50(\text{grams Pu})}{200} < 1$$

(126) "Stochastic effect" means a health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects. For purposes of these regulations, probabilistic effect is an equivalent term.

(127) "Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, release, disposal, or presence of sources of radiation. When appropriate, such evaluation includes, but is not limited to, tests, physical examinations, calculations and measurements of levels of radiation or concentration of radioactive material present.

(128) "Test" means (a) the process of verifying compliance with an applicable regulation, or (b) a method for determining the characteristics or condition of sources of radiation or components thereof.

(129) "These regulations" mean all parts of the rules for radiation protection of the state of Washington.

(130) "Total effective dose equivalent" (TEDE) means the sum of the deep dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

(131) "Total organ dose equivalent (TODE)" means the sum of the deep dose equivalent and the committed dose equivalent to the organ or tissue receiving the highest dose.

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(132) "Type A packaging" means packaging designed in accordance with 49 CFR 173.411 and 173.412 to retain its integral containment and shielding under normal conditions of transport as demonstrated by tests described in 49 CFR 173.465 or 173.466 as appropriate. The contents are limited to A<sub>1</sub> or A<sub>2</sub> quantities. The package does not require competent authority approval.

(133) "Type A quantity" means a quantity of radioactive material less than or equal to the A<sub>1</sub> or A<sub>2</sub> value for a single radionuclide, or for which the sum of the fractions does not exceed unity for a mixture of radionuclides.

(134) "Type B packaging" means packaging approved by the United States Nuclear Regulatory Commission for the transport of quantities of radioactivity in excess of A<sub>1</sub> or A<sub>2</sub>. It is defined in detail in 10 CFR 71.4.

(135) "Type B quantity" means a quantity of radioactive material in excess of a Type A quantity. It requires Type B packaging for transportation.

(136) "United States Department of Energy" means the Department of Energy established by Public Law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the department exercises functions formerly vested in the United States Atomic Energy Commission, its chairman, members, officers and components and transferred to the United States Energy Research and Development Administration and to the administrator thereof pursuant to sections 104 (b), (c) and (d) of the Energy Reorganization Act of 1974 (Public Law 93-438, October 11, 1974, 88 Stat. 1233 at 1237, 42 U.S.C. 5814 effective January 19, 1975) and retransferred to the Secretary of Energy pursuant to section 301(a) of the Department of Energy Organization Act (Public Law 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

(137) "Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining.

(138) "Unrestricted area" (uncontrolled area) means any area which is not a restricted area. Areas where the external dose exceeds 2 mrem in any one hour or where the public dose, taking into account occupancy factors, will exceed 100 mrem total effective dose equivalent in any one year must be restricted.

(139) "Very high radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving an absorbed dose in excess of 5 Gy (500 rad) in one hour at one meter from a source of radiation or from any surface that the radiation penetrates.

(140) "Waste handling licensees" mean persons licensed to receive and store radioactive wastes prior to disposal and/or persons licensed to dispose of radioactive waste.

(141) "Week" means seven consecutive days starting on Sunday.

(142) "Weighting factor"  $w_T$  for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of  $w_T$  are:

ORGAN DOSE WEIGHTING FACTORS

Organ or Tissue	$w_T$
Gonads	0.25
Breast	0.15
Red bone marrow	0.12
Lung	0.12
Thyroid	0.03
Bone surfaces	0.03
Remainder	0.30 <sup>a</sup>
Whole Body	1.00 <sup>b</sup>

<sup>a</sup> 0.30 results from 0.06 for each of 5 "remainder" organs, excluding the skin and the lens of the eye, that receive the highest doses.

<sup>b</sup> For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor,  $w_T = 1.0$ , has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until such time as specific guidance is issued.

(143) "Whole body" means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

(144) "Worker" means an individual engaged in activities under a license or registration issued by the department and controlled by a licensee or registrant but does not include the licensee or registrant. Where the licensee or registrant is an individual rather than one of the other legal entities defined under "person," the radiation exposure limits for the worker also apply to the individual who is the licensee or registrant. If students of age eighteen years or older are subjected routinely to work involving radiation, then the students are considered to be workers. Individuals of less than eighteen years of age shall meet the requirements of WAC 246-221-050.

(145) "Working level" (WL) means any combination of short-lived radon daughters in 1 liter of air that will result in the ultimate emission of  $1.3 \times 10^5$  MeV of potential alpha particle energy. The short-lived radon daughters are — for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212.

(146) "Working level month" (WLM) means an exposure to one working level for one hundred seventy hours — two thousand working hours per year divided by twelve months per year is approximately equal to one hundred seventy hours per month.

(147) "Year" means the period of time beginning in January used to determine compliance with the provisions of these regulations. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

**AMENDATORY SECTION** (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

**WAC 246-221-001 Purpose and scope.** (1) This chapter establishes standards for protection against radiation hazards. Except as otherwise specifically provided, this chapter applies to all licensees or registrants. The requirements of this chapter are designed to control the receipt, possession, use, transfer, and disposal of sources of radiation by any licensee or registrant so the total dose to an individual, including doses resulting from all sources of radiation other than background radiation, does not exceed the standards for protection against radiation prescribed in this chapter.

(2) The limits in this chapter do not apply to doses due to background radiation, to exposure of patients to radiation for the purpose of medical diagnosis or therapy, to exposure from individuals administered radioactive material and released pursuant to chapters 246-239 and 246-240 WAC, or to voluntary participation in medical research programs.

(3) Nothing in this chapter shall be interpreted as limiting actions that may be necessary to protect health and safety in an emergency.

(4) The definitions contained in WAC 246-220-010 also apply to this chapter. WAC 246-220-007, Statement of philosophy, is directly applicable to this chapter.

**AMENDATORY SECTION** (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

**WAC 246-221-060 Dose limits for individual members of the public.** (1) Each licensee or registrant shall conduct operations so that:

(a) The total effective dose equivalent to individual members of the public from the licensed or registered operation does not exceed 1 mSv (0.1 rem) in a year, exclusive of the dose contributions from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released pursuant to chapters 246-239 and 246-240 WAC, from voluntary participation in medical research programs, and from the licensee's or registrant's disposal of radioactive material into sanitary sewerage in accordance with WAC 246-221-190; and

(b) The dose in any unrestricted area from external sources, exclusive of the dose contributions from patients administered radioactive material and released pursuant to chapters 246-239 and 246-240 WAC, does not exceed 0.02 mSv (0.002 rem) in any one hour.

(2) If the licensee or registrant permits members of the public to have access to restricted areas, they shall be escorted and the limits for members of the public continue to apply to those individuals.

(3) Notwithstanding subsection (1) of this section, a licensee or registrant may continue to operate a facility constructed and put into operation prior to January 1, 1994, where the annual dose limit for an individual member of the public is more than 1 mSv (0.1 rem) and less than 5 mSv (0.5 rem) total effective dose equivalent, provided:

(a) The facility's approved operating conditions for each radiation source remain the same. Any increase in the follow-

ing operating conditions shall require reevaluation and/or modification of the facility shielding applicable to the source of radiation to meet the 1 mSv (0.1 rem) total effective dose equivalent limit for individual members of the public: size of the radiation source, workload, or occupancy factors associated with the source of radiation; and

(b) Any change in the permanent shielding of the facility due to remodeling, repair or replacement shall require the facility to meet the 1 mSv (0.1 rem) total effective dose equivalent limit for individual members of the public for areas affected by that portion of the shielding.

(4) Each licensee or registrant shall maintain records sufficient to demonstrate compliance with the dose limit for individual members of the public.

**AMENDATORY SECTION** (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

**WAC 246-221-130 Exceptions from posting and labeling requirements.** (1) A room or area is not required to be posted with a caution sign because of the presence of a sealed source, provided the radiation level 30 centimeters from the surface of the source container or housing does not exceed 0.05 mSv (five millirem) per hour.

(2) Rooms or other areas in hospitals that are occupied by patients are not required to be posted with caution signs because of the presence of patients containing radioactive material provided that ~~((confinement is not required))~~ the patient could be released from licensee control pursuant to chapters 246-239 and 246-240 WAC.

(3) Caution signs are not required to be posted in areas or rooms containing radioactive material for periods of less than eight hours provided that:

(a) The material is constantly attended during such periods by an individual who shall take the precautions necessary to prevent the exposure of any individual to radiation or radioactive material in excess of the limits established in this part; and

(b) Such area or room is subject to the licensee's or registrant's control.

(4) A room or other area is not required to be posted with a caution sign because of the presence of radioactive material prepared for transport and packaged and labeled in accordance with regulations of the United States Department of Transportation.

(5) A room or area is not required to be posted with a caution sign because of the presence of a diagnostic x-ray system used solely for healing arts purposes.

(6) The interior of a teletherapy room is not required to be posted with caution signs provided such posting is conspicuously placed at the entrance(s) to the rooms.

(7) A licensee is not required to label:

(a) Containers holding licensed material in quantities less than the quantities listed in WAC 246-221-300; or

(b) Containers holding licensed material in concentrations less than those specified in WAC 246-221-290, Table III; or

(c) Containers attended by an individual who takes the precautions necessary to prevent the exposure of any individ-

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ual to radiation or radioactive material in excess of the limits established by this chapter; or

(d) Containers when they are in transport and packaged and labeled in accordance with the regulations of the United States Department of Transportation; or

(e) Containers such as those located in water-filled canals, storage vaults, or hot cells, that are accessible only to individuals authorized to handle or use them, or to work in the vicinity of the containers, provided the contents are identified to these individuals by a readily available written record. The record shall be retained as long as the containers are in use for the purpose indicated on the record; or

(f) Installed manufacturing or process equipment, such as chemical process equipment, piping, and tanks.

(8) Each licensee, prior to removal or disposal of empty uncontaminated containers to unrestricted areas, shall remove or deface the radioactive material label or otherwise clearly indicate that the container no longer contains radioactive materials.

**AMENDATORY SECTION** (Amending WSR 95-01-108, filed 12/21/94, effective 1/21/95)

**WAC 246-221-250 Notification of incidents. (1)**

**Immediate notification.** Notwithstanding other requirements for notification, each licensee and/or registrant shall immediately (as soon as possible but no later than four hours after discovery of an incident) notify the State Department of Health, Division of Radiation Protection, P.O. Box 47827, Olympia, Washington 98504-7827, by telephone (206/682-5327) and confirming letter, telegram, mailgram, or facsimile of any incident involving any radiation source which may have caused or threatens to cause:

(a) An individual to receive:

(i) A total effective dose equivalent of 0.25 Sv (25 rem) or more; or

(ii) An eye dose equivalent of 0.75 Sv (75 rem) or more; or

(iii) A shallow dose equivalent to the skin or extremities or a total organ dose equivalent of 2.5 Sv (250 rem) or more; or

(b) The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for twenty-four hours, the individual could have received an intake five times the occupational ALI. This provision does not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures; or

(c) The loss of ability to take immediate protective actions necessary to avoid exposure to sources of radiation or releases of radioactive material that could exceed regulatory limits. Events which could cause such a loss of ability include fires, explosions, toxic gas releases, etc.

(2) **Twenty-four hour notification.** Each licensee and/or registrant shall within twenty-four hours of discovery of the event, notify the State Department of Health, Division of Radiation Protection, P.O. Box 47827, Olympia, Washington 98504-7827, by telephone (206/682-5327) and confirming letter, telegram, mailgram, or facsimile of any incident

involving any radiation source possessed which may have caused or threatens to cause:

(a) An individual to receive, in a period of twenty-four hours:

(i) A total effective dose equivalent exceeding 0.05 Sv (5 rem); or

(ii) An eye dose equivalent exceeding 0.15 Sv (15 rem); or

(iii) A shallow dose equivalent to the skin or extremities or a total organ dose equivalent exceeding 0.5 Sv (50 rem); or

(b) The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for twenty-four hours, the individual could have received an intake in excess of one occupational ALI. This provision does not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures; or

(c) An unplanned contamination incident that:

(i) Requires access to the contaminated area, by workers or the general public, to be restricted for more than twenty-four hours by imposing additional radiological controls or by prohibiting entry into the area;

(ii) Involves a quantity of material greater than five times the lowest annual limit on intake specified in WAC 246-221-290; and

(iii) Has access to the area restricted for a reason other than to allow radionuclides with a half-life of less than twenty-four hours to decay prior to decontamination; or

(d) Equipment failure or inability to function as designed when:

(i) The equipment is required by regulation or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive material exceeding regulatory limits or to mitigate the consequences of an accident;

(ii) The equipment is required to be available and operable at the time it becomes disabled or fails to function; and

(iii) No redundant equipment is available and operable to perform the required safety functions; or

(e) An unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body; or

(f) An unplanned fire or explosion damaging any radioactive material or any device, container or equipment containing radioactive material when:

(i) The quantity of radioactive material involved is greater than five times the lowest annual limit on intake specified in WAC 246-221-290; and

(ii) The damage affects the integrity of the radioactive material or its container.

(3) For each occurrence requiring notification pursuant to this section, a prompt investigation of the situation shall be initiated by the licensee/registrant. A written report of the findings of the investigation shall be sent to the department within thirty days.

(4) The licensee or registrant shall prepare each report filed with the department pursuant to this section so that names of individuals who have received exposure to sources of radiation are stated in a separate and detachable portion of the report.

Any report filed with the department pursuant to this section shall contain the information described in WAC 246-221-260 (2) and (3).

(5) The provisions of this section do not apply to doses that result from planned special exposures, provided such doses are within the limits for planned special exposures and are reported pursuant to WAC 246-221-265.

(6) Telephone notifications that do not involve immediate or twenty-four hour notification shall not be made to the emergency number (Seattle 206/682-5327). Routine calls should be made to the Olympia office ((360/753-3468)) (360 236-3300).

(7) Telephone notification required under this section shall include, to the extent that the information is available at the time of notification:

- (a) The caller's name and call-back telephone number;
- (b) A description of the incident including date and time;
- (c) The exact location of the incident;
- (d) The radionuclides, quantities, and chemical and physical forms of the radioactive materials involved; and
- (e) Any personnel radiation exposure data available.

**AMENDATORY SECTION** (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

**WAC 246-222-080 Inspections not warranted—Informal review.** (1) If the department of health, division of radiation protection determines, with respect to a complaint under WAC 246-222-070 that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists or has occurred, the division of radiation protection shall notify the complainant in writing of such determination.

(a) If the complaint resulted from activities concerning naturally occurring or accelerator produced radioactive materials and/or radiation producing machines: The complainant may obtain review of such determination by submitting a written statement of position to the Assistant Director, Division of Industrial Safety and Health, P.O. Box 4600, Olympia, Washington 98504-4600. Such request for informal review will be processed according to the provisions of WAC 296-350-460 and the provisions of the interagency agreement between the department of labor and industries and the department of health, division of radiation protection, if any.

(b) If the complaint resulted from activities concerning byproduct material, source material, and/or special nuclear material: The complainant may obtain review of such determination by submitting a written statement of position with the Department of Health, Division of Radiation Protection, P.O. Box 47827, Olympia, Washington 98504-7827 ((360/753-3468)) (360 236-3300), who will provide the licensee or registrant with a copy of such statement by certified mail, excluding, at the request of the complainant, the name of the complainant. The licensee or registrant may submit an opposing written statement of position with the department of health, division of radiation protection, who will provide the complainant with a copy of such statement by certified mail. Upon the request of the complainant, the department of health may hold an informal conference in which the complainant and the licensee or registrant may orally present

their views. An informal conference may also be held at the request of the licensee or registrant, but disclosure of the identity of the complainant will be made only following receipt of written authorization from the complainant. After considering all written or oral views presented, the department of health shall affirm, modify, or reverse the determination of the division of radiation protection and furnish the complainant and the licensee or registrant a written notification of the decision and the reason therefor.

(2) If the division of radiation protection determines that an inspection is not warranted because the requirements of WAC 246-222-070(1) have not been met, it shall notify the complainant in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of WAC 246-222-070(1).

**AMENDATORY SECTION** (Amending Order 184, filed 7/24/91, effective 8/24/91)

**WAC 246-232-010 Exemptions.** (1) *Source material.*

(a) Any person is exempt from this chapter and chapters 246-233 and 246-235 WAC to the extent that such person receives, possesses, uses, owns, or transfers source material in any chemical mixture, compound, solution or alloy in which the source material is by weight less than 1/20 of one percent (0.05 percent) of the mixture, compound, solution, or alloy.

(b) Any person is exempt from this chapter and chapters 246-233 and 246-235 WAC to the extent that such person receives, possesses, uses or transfers unrefined and unprocessed ore containing source material: *Provided*, That, except as authorized in a specific license, such person shall not refine or process such ore.

(c) Any person is exempt from this chapter and chapters 246-233 and 246-235 WAC to the extent that such person receives, possesses, uses or transfers:

(i) Any quantities of thorium contained in:

- (A) Incandescent gas mantles;
- (B) Vacuum tubes;
- (C) Welding rods;

(D) Electric lamps for illuminating purposes provided that each lamp does not contain more than fifty milligrams of thorium;

(E) Germicidal lamps, sunlamps and lamps for outdoor or industrial lighting provided that each lamp does not contain more than two grams of thorium;

(F) Rare earth metals and compounds, mixtures, and products containing not more than 0.25 percent by weight thorium, uranium, or any combination of these; or

(G) Personnel neutron dosimeters, provided each dosimeter does not contain more than 50 milligrams of thorium;

(ii) Source material contained in the following products:

(A) Glazed ceramic tableware: *Provided*, That the glaze contains not more than twenty percent by weight source material; and

(B) Piezoelectric ceramic containing not more than two percent by weight source material;

(iii) Photographic film, negatives and prints containing uranium or thorium;

(iv) Any finished product or part fabricated of, or containing, tungsten-thorium or magnesium-thorium alloys: *Provided*, That the thorium content of the alloy does not exceed four percent by weight and that the exemption contained in this subparagraph shall not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such product or part;

(v) Depleted uranium contained in counterweights installed in aircraft, rockets, projectiles and missiles, or stored or handled in connection with installation or removal of such counterweights, provided that:

(A) The counterweights are manufactured in accordance with a specific license issued by the United States Nuclear Regulatory Commission authorizing distribution by the licensee pursuant to 10 CFR Part 40;

(B) Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM"\*;

(C) Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED"\*; and

(D) The exemption contained in this subparagraph shall not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such counterweight other than repair or restoration of any plating or other covering;

\*Note: The requirements specified in (c)(v)(B) and (C) of this subsection need not be met by counterweights manufactured prior to December 31, 1969: *Provided*, That such counterweights are impressed with the legend, "CAUTION - RADIOACTIVE MATERIAL - URANIUM," as previously required by the regulations.

(vi) Depleted uranium used as shielding constituting part of any shipping container which is conspicuously and legibly impressed with the legend "CAUTION - RADIOACTIVE SHIELDING - URANIUM" and the uranium metal is encased in mild steel or in an equally fire resistant metal of a minimum wall thickness of 3.2 millimeters.

(vii) Thorium contained in finished optical lenses: *Provided*, That each lens does not contain more than thirty percent by weight of thorium, and that the exemption contained in this subparagraph shall not be deemed to authorize either:

(A) The shaping, grinding or polishing of such lens or manufacturing processes other than the assembly of such lens into optical systems and devices without alteration of the lens; or

(B) The receipt, possession, use or transfer of thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments;

(viii) Uranium contained in detector heads for use in fire detection units: *Provided*, That each detector head contains not more than 0.005 microcuries of uranium; or

(ix) Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:

(A) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

(B) The thorium content in the nickel-thoria alloy does not exceed four percent by weight.

(d) The exemptions in (c) of this subsection do not authorize the manufacture of any of the products described.

(2) *Radioactive material other than source material.*

(a) Exempt concentrations.

(i) Except as provided in (a)(ii) of this subsection any person is exempt from this chapter and chapters 246-233 and 246-235 WAC to the extent that such person receives, possesses, uses, transfers, owns or acquires products or materials containing radioactive material in concentrations not in excess of those listed in WAC 246-232-130, Schedule C.

(ii) No person may introduce radioactive material into a product or material, knowing or having reason to believe, that it will be transferred to persons exempt under (a)(i) of this subsection or equivalent regulations of the United States Nuclear Regulatory Commission, any agreement state or licensing state, except in accordance with a specific license issued pursuant to WAC ((~~246-235-100(1)~~) 246-235-105 or the general license provided in WAC 246-232-040.

(b) Exempt quantities.

(i) Except as provided in (b)(ii) and (iii) of this subsection any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns or acquires radioactive material in individual quantities each of which does not exceed the applicable quantity set forth in WAC 246-232-120, Schedule B.

(ii) This paragraph, WAC 246-232-010 (2)(b), does not authorize the production, packaging or repackaging of radioactive material for purposes of commercial distribution, or the incorporation of radioactive material into products intended for commercial distribution.

(iii) No person may, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in WAC 246-232-120, Schedule B, knowing or having reason to believe that such quantities of radioactive material will be transferred to persons exempt under (b) of this subsection or equivalent regulations of the United States Nuclear Regulatory Commission or any agreement state or licensing state, except in accordance with a specific license issued by the United States Nuclear Regulatory Commission, pursuant to Section 32.18 of 10 CFR Part 32 or by the department pursuant to WAC ((~~246-235-100(2)~~) 246-235-105 which license states that the radioactive material may be transferred by the licensee to persons exempt under (b) of this subsection or the equivalent regulations of the United States Nuclear Regulatory Commission or any agreement state or licensing state.

(c) Exempt items.

(i) Certain items containing radioactive material. Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, any person is exempt from these regulations to the extent that person receives, possesses, uses, transfers, owns or acquires the following products:\*

\*Note: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source material or byproduct material whose subsequent possession, use, transfer and disposal by all other persons who are exempted from regulatory requirements may be obtained only from



the United States Nuclear Regulatory Commission, Washington, D.C. 20555.

(A) Timepieces or hands or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:

- 25 millicuries of tritium per timepiece;
- 5 millicuries of tritium per hand;
- 15 millicuries of tritium per dial (bezels when used shall be considered as part of the dial);
- 100 microcuries of promethium - 147 per watch or 200 microcuries of promethium - 147 per any other timepiece;
- 20 microcuries of promethium - 147 per watch hand or 40 microcuries of promethium - 147 per other timepiece hand;
- 60 microcuries of promethium - 147 per watch dial or 120 microcuries of promethium - 147 per other timepiece dial (bezels when used shall be considered as part of the dial);

The levels of radiation from hands and dials containing promethium - 147 will not exceed, when measured through 50 milligrams per square centimeter of absorber:

- For wrist watches, 0.1 millirad per hour at 1 centimeter from any surface;
  - For pocket watches, 0.1 millirad per hour at 1 centimeter from any surface;
  - For any other timepiece, 0.2 millirad per hour at 10 centimeters from any surface.
- One microcurie of radium-226 per timepiece in timepieces manufactured prior to the effective date of these regulations.

(B) Lock illuminators containing not more than 15 millicuries of tritium or not more than 2 millicuries of promethium - 147 installed in automobile locks. The levels of radiation from each lock illuminator containing promethium - 147 will not exceed 1 millirad per hour at 1 centimeter from any surface when measured through 50 milligrams per square centimeter of absorber.

(C) Precision balances containing not more than 1 millicurie of tritium per balance or not more than 0.5 millicurie of tritium per balance part.

(D) Automobile shift quadrants containing not more than 25 millicuries of tritium.

(E) Marine compasses containing not more than 750 millicuries of tritium gas and other marine navigational instruments containing not more than 250 millicuries of tritium gas.

(F) Thermostat dials and pointers containing not more than 25 millicuries of tritium per thermostat.

(G) Electron tubes: *Provided*, That each tube does not contain more than one of the following specified quantities of radioactive material:

- (aa) 150 millicuries of tritium per microwave receiver protector tube or 10 millicuries of tritium per any other electron tube;
- (bb) 1 microcurie of cobalt-60;
- (cc) 5 microcuries of nickel-63;
- (dd) 30 microcuries of krypton-85;

(ee) 5 microcuries of cesium-137;

(ff) 30 microcuries of promethium-147;

(gg) 1 microcurie of radium-226:

*And provided further*, That the levels of radiation from each electron tube containing radioactive material does not exceed 1 millirad per hour at 1 centimeter from any surface when measured through 7 milligrams per square centimeter of absorber.\*

\*Note: For purposes of this subdivision, "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes, and any other completely sealed tube that is designed to conduct or control electrical currents.

(H) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, a source of radioactive material not exceeding 0.05 microcuries of americium-241 or the applicable quantity set forth in WAC 246-232-120, Schedule B.

(I) Spark gap irradiators containing not more than 1 microcurie of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least three gallons (11.4 liters) per hour.

(ii) Self-luminous products containing radioactive material(s).

(A) Tritium, krypton-85 or promethium-147. Except for persons who manufacture, process or produce self-luminous products containing tritium, krypton-85 or promethium-147, any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns or acquires tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced, imported or transferred in accordance with a specific license issued by the United States Nuclear Regulatory Commission pursuant to Section 32.22 of 10 CFR Part 32, which license authorizes the transfer of the product to persons who are exempt from regulatory requirements. The exemption in (c)(ii) of this subsection does not apply to tritium, krypton-85 or promethium-147 used in products for frivolous purposes or in toys or adornments.

(B) Radium-226. Any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers or owns articles containing less than 0.1 microcurie of radium-226 which were manufactured prior to October 1983.

(iii) Gas and aerosol detectors containing radioactive material.

(A) Except for persons who manufacture, process or produce gas and aerosol detectors containing radioactive material, any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards: *Provided*, That detectors containing radioactive material shall have been manufactured, imported, or transferred in accordance with a specific license issued by the United States Nuclear Regulatory Commission\* or an agreement state, pursuant to Section 32.26 of 10 CFR Part 32, or licensing state pursuant to WAC ((~~246-235-100(3)~~) 246-

235-105, which authorizes the transfer of the detectors to persons who are exempt from regulatory requirements.

\*Note: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source material or byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the United States Nuclear Regulatory Commission, Washington, D.C. 20555.

(B) Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an agreement state shall be considered exempt under (c)(iii)(A) of this subsection: *Provided*, That the device is labeled in accordance with the specific license authorizing distribution of the generally licensed device: *And provided further*, That they meet the requirements of WAC ((246-235-100(3))) 246-235-105.

(C) Gas and aerosol detectors containing naturally occurring and accelerator-produced radioactive material (NARM) previously manufactured and distributed in accordance with a specific license issued by a licensing state shall be considered exempt under (c)(iii)(A) of this subsection: *Provided*, That the device is labeled in accordance with the specific license authorizing distribution of the generally licensed device, and provided further that they meet the requirements of WAC ((246-235-100(3))) 246-235-105.

(iv) Resins containing scandium-46 and designed for sand consolidation in oil wells. Any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns or acquires synthetic plastic resins containing scandium-46 which are designed for sand consolidation in oil wells. Such resins shall have been manufactured or imported in accordance with a specific license issued by the United States Nuclear Regulatory Commission or shall have been manufactured in accordance with the specifications contained in a specific license issued by the department or any agreement state to the manufacturer of such resins pursuant to licensing requirements equivalent to those in Sections 32.16 and 32.17 of 10 CFR Part 32 of the regulations of the United States Nuclear Regulatory Commission. This exemption does not authorize the manufacture of any resins containing scandium-46.

AMENDATORY SECTION (Amending Order 184, filed 7/24/91, effective 8/24/91)

**WAC 246-232-040 Reciprocal recognition of licenses.** (1) Subject to these regulations, any person who holds a specific license from the United States Nuclear Regulatory Commission or any agreement state or licensing state, and issued by the agency having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, is hereby granted a general license to conduct the activities authorized in such licensing document within this state for a period not in excess of one hundred eighty days in that twelve month period which commences the date approval is granted, and the appropriate fee received, by the department provided that:

(a) The licensing document does not limit the activity authorized by such document to specified installations or locations;

(b) The out-of-state licensee notifies the department in writing and pays or has paid the appropriate fee (refer to chapter 246-254 WAC), at least three days prior to each entry to the state to engage in such activity. The written notification must be sent to the Radioactive Materials Section, Department of Health, Mailstop ((~~EE-13~~) 47827, Olympia, Washington 98504-7827 and the fee should be sent to Washington State Department of Health, Revenue Accounting, P.O. Box 1099, Olympia, Washington 98504. Such notification shall indicate the location, period, and type of proposed possession and use within the state, and shall be accompanied by copies of the pertinent licensing documents. If, for a specific case, the three-day period would impose an undue hardship on the out-of-state licensee, the licensee may, upon telephone application to the department ((~~360-753-4481~~)) (360 236-3220), obtain permission to proceed sooner. The department may waive the requirement for filing additional written notifications during the remainder of the twelve months following the receipt of the initial notification from a person engaging in activities under the general license provided in this subsection;

(c) The out-of-state licensee complies with all applicable regulations of the department and with all the terms and conditions of the licensing document, except any such terms and conditions which may be inconsistent with applicable regulations of the department;

(d) The out-of-state licensee supplies such other information as the department may request; and

(e) The out-of-state licensee shall not transfer or dispose of radioactive material possessed or used under the general license provided in this subsection except by transfer to a person:

(i) Specifically licensed by the department or by the United States Nuclear Regulatory Commission, an agreement state or a licensing state to receive such material; or

(ii) Exempt from the requirements for a license for such material under WAC 246-232-010 (2)(a).

(2) Notwithstanding the provisions of subsection (1) of this section, any person who holds a specific license issued by the United States Nuclear Regulatory Commission, an agreement state or a licensing state authorizing the holder to manufacture, transfer, install, or service a device described in WAC 246-233-020(4) within the areas subject to the jurisdiction of the licensing body is hereby granted a general license to install, transfer, demonstrate or service a device in this state provided that:

(a) Such person shall file a report with the department within thirty days after the end of each calendar quarter in which any device is transferred to or installed in this state. Each such report shall identify each general licensee to whom such device is transferred by name and address, the type of device transferred, and the quantity and type of radioactive material contained in the device;

(b) The device has been manufactured, labeled, installed, and serviced in accordance with applicable provisions of the specific license issued to such person by the United States

Nuclear Regulatory Commission, an agreement state or a licensing state;

(c) Such person shall assure that any labels required to be affixed to the device under regulations of the authority which licensed manufacture of the device bear a statement that "Removal of this label is prohibited"; and

(d) The holder of the specific license shall furnish to each general licensee to whom such device is transferred or on whose premises such device is installed a copy of the general license contained in WAC 246-233-020(4).

(3) The department may withdraw, limit, or qualify its acceptance of any specific license or equivalent licensing document issued by another agency, or any product distributed pursuant to such licensing document, upon determining that such action is necessary in order to prevent undue hazard to public health and safety or property.

**AMENDATORY SECTION** (Amending Order 184, filed 7/24/91, effective 8/24/91)

**WAC 246-233-010 General licenses—Source material.** (1) A general license is hereby issued authorizing use, possession, and transfer of not more than fifteen pounds of source material at any one time by persons in the following categories:

(a) Pharmacists using the source material solely for the preparation of medicinal compounds;

(b) Physicians using the source material for medicinal purposes;

(c) Persons receiving possession of source material from pharmacists and physicians in the form of medicinals or drugs;

(d) Commercial and industrial firms, and research, educational, and medical institutions, and state and local government agencies for research, development, educational, operational, or commercial purposes: *And provided*, That no such person shall, pursuant to this general license, receive more than a total of one hundred fifty pounds of source material in any one calendar year.

(2) Persons who receive, possess, use, or transfer source material pursuant to the general license issued in subsection (1) of this section are exempt from the provisions of chapters 246-221 and 246-222 WAC to the extent that such receipt, possession, use, or transfer is within the terms of such general license: *Provided, however*, That this exemption shall not be deemed to apply to any such person who is also in possession of source material under a specific license issued pursuant to chapter 246-235 WAC.

(3) A general license is hereby issued authorizing the receipt of title to source material without regard to quantity. This general license does not authorize any person to receive, possess, use, or transfer source material.

(4) Depleted uranium in industrial products and devices.

(a) A general license is hereby issued to receive, acquire, possess, use, or transfer, in accordance with the provisions of paragraphs (4)(b), (c), (d), and (e) of this section, depleted uranium contained in industrial products or devices for the purpose of providing a concentrated mass in a small volume of the product or device.

(b) The general license in paragraph (4)(a) of this section applies only to industrial products or devices which have been manufactured either in accordance with a specific license issued to the manufacturer of the products or devices pursuant to WAC ((246-235-100(13))) 246-235-091 or in accordance with a specific license issued to the manufacturer by the United States Nuclear Regulatory Commission or an agreement state which authorizes manufacture of the products or devices for distribution to persons generally licensed by the United States Nuclear Regulatory Commission or an agreement state.

(c)(i) Persons who receive, acquire, possess, or use depleted uranium pursuant to the general license established by paragraph (4)(a) of this section shall file department form RHF-20 "Registration certificate - Use of depleted uranium under general license," with the department. The form shall be submitted within thirty days after the first receipt or acquisition of such depleted uranium. The registrant shall furnish on department form RHF-20 the following information and such other information as may be required by that form:

(A) Name and address of the registrant;

(B) A statement that the registrant has developed and will maintain procedures designed to establish physical control over the depleted uranium described in paragraph (4)(a) of this section and designed to prevent transfer of such depleted uranium in any form, including metal scrap, to persons not authorized to receive the depleted uranium; and

(C) Name and/or title, address, and telephone number of the individual duly authorized to act for and on behalf of the registrant in supervising the procedures identified in item (4)(c)(i)(B) of this section.

(ii) The registrant possessing or using depleted uranium under the general license established by paragraph (4)(a) of this section shall report in writing to the department any changes in information previously furnished on the "Registration certificate - Use of depleted uranium under general license." The report shall be submitted within thirty days after the effective date of such change.

(d) A person who receives, acquires, possesses, or uses depleted uranium pursuant to the general license established by paragraph (4)(a) of this section:

(i) Shall not introduce such depleted uranium, in any form, into a chemical, physical, or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium.

(ii) Shall not abandon such depleted uranium.

(iii) Shall transfer or dispose of such depleted uranium only by transfer in accordance with the provision of chapter 246-232 WAC. In the case where the transferee receives the depleted uranium pursuant to the general license established by paragraph (4)(a) of this section the transferor shall furnish the transferee a copy of this regulation and a copy of department form RHF-20.

In the case where the transferee receives the depleted uranium pursuant to a general license contained in the United States Nuclear Regulatory Commission's or agreement state's regulation equivalent to paragraph (4)(a) of this section the transferor shall furnish the transferee a copy of this regulation and a copy of department form RHF-20 accompanied by a note explaining that use of the product or device is regulated

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by the United States Nuclear Regulatory Commission or agreement state under requirements substantially the same as those in this regulation.

(iv) Shall maintain and make available to the department upon request the name and address of the person receiving the depleted uranium pursuant to such transfer.

(v) Shall not export such depleted uranium except in accordance with a license issued by the United States Nuclear Regulatory Commission pursuant to 10 CFR Part 110.

(e) Any person receiving, acquiring, possessing, using, or transferring depleted uranium pursuant to the general license established by paragraph (4)(a) of this section is exempt from the requirements of chapters 246-221 and 246-222 WAC of these regulations with respect to the depleted uranium covered by that general license.

**AMENDATORY SECTION** (Amending Order 184, filed 7/24/91, effective 8/24/91)

**WAC 246-233-020 General licenses\*—Radioactive material other than source material.**

\*Note: Different general licenses are issued in this section, each of which has its own specific conditions and requirements.

(1) **Certain devices and equipment.** A general license is hereby issued to transfer, receive, acquire, own, possess, and use radioactive material incorporated in the following devices or equipment which have been manufactured, tested and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the United States Nuclear Regulatory Commission for use pursuant to Section 31.3 of 10 CFR Part 31. This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-050, 246-220-060, 246-220-070, chapters 246-232, 246-221\*\* and 246-222 WAC.

(a) **Static elimination device.** Devices designed for use as static eliminators which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 500 microcuries of Polonium-210 per device.

(b) **Ion generating tube.** Devices designed for ionization of air which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 500 microcuries of Polonium-210 per device or a total of not more than 50 millicuries of Hydrogen-3 (tritium) per device.

\*\* Attention is directed particularly to the provisions of chapter 246-221 WAC of these regulations which relate to the labeling of containers.

(2) Reserved.

(3) Reserved.

(4) **Certain measuring, gauging or controlling devices.**

(a) A general license is hereby issued to commercial and industrial firms and research, educational and medical institutions, individuals in the conduct of their business, and state or local government agencies to own, acquire, receive, possess, use or transfer, in accordance with the provisions of (b), (c), and (d) of this subsection, radioactive material excluding special nuclear material contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.

(b) The general license in (a) of this subsection applies only to radioactive material contained in devices which have been manufactured and labeled in accordance with the specifications contained in a specific license issued by the department pursuant to WAC ((246-235-100(4))) 246-235-093 or in accordance with the Nuclear Regulatory Commission, an agreement state or a licensing state, which authorizes distribution of devices to persons generally licensed by the United States Nuclear Regulatory Commission, an agreement state or licensing state\*\*.

\*Note: Regulations under the Federal Food, Drug, and Cosmetic Act authorizing the use of radioactive control devices in food production require certain additional labeling thereon which is found in Section 179.21 of 21 CFR Part 179.

(c) Any person who owns, acquires, receives, possesses, uses or transfers radioactive material in a device pursuant to the general license in (a) of this subsection:

(i) Shall assure that all labels affixed to the device at the time of receipt and bearing a statement that removal of the label is prohibited are maintained thereon and shall comply with all instructions and precautions provided by such labels;

(ii) Shall assure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at such other intervals as are specified in the label, however:

(A) Devices containing only krypton need not be tested for leakage of radioactive material; and

(B) Devices containing only tritium or not more than 100 microcuries of other beta and/or gamma emitting material or 10 microcuries of alpha emitting material need not be tested for any purpose. Devices held in storage in the original shipping container prior to initial installation need not be tested until immediately prior to use;

(iii) Shall assure that the tests required by (c)(ii) of this subsection and other testing, installing, servicing, and removing from installation involving the radioactive materials, its shielding or containment, are performed:

(A) In accordance with the instructions provided by the labels; or

(B) By a person holding a specific license from the department or from the United States Nuclear Regulatory Commission or from any agreement state or from a licensing state to perform such activities;

(iv) Shall maintain records showing compliance with the requirements of (c)(ii) and (iii) of this subsection. The records shall show the results of tests. The records also shall show the dates of performance and the names of persons performing, testing, installing, servicing, and removing from installation concerning the radioactive material, its shielding or containment. Records of tests for leakage of radioactive material required by (c)(ii) of this subsection shall be maintained for one year after the next required leak test is performed or the sealed source is transferred or disposed. Records of tests of the on/off mechanism and indicator required by (c)(ii) of this subsection shall be maintained for one year after the next required test of the on/off mechanism and indicator is performed or the sealed source is transferred or disposed. Records of other testing, installation, servicing, and removal from installation required by (c)(iii) of this sub-

section shall be maintained for a period of two years from the date of the recorded event or until the device is transferred or disposed;

(v) Upon the occurrence of a failure of or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on/off mechanism or indicator, or upon the detection of 0.005 microcuries or more removable radioactive material, shall immediately suspend operation of the device until it has been repaired by the manufacturer or other person holding a specific license from the department, the United States Nuclear Regulatory Commission, or from an agreement state or a licensing state to repair such devices, or disposed by transfer to a person authorized by a specific license to receive the radioactive material contained in the device and, within thirty days, furnish to the department a written report containing a brief description of the event and the remedial action taken;

(vi) Shall not abandon the device containing radioactive material;

(vii) Except as provided in (c)(viii) of this subsection, shall transfer or dispose the device containing radioactive material only by transfer to a person holding a specific license of the department, the United States Nuclear Regulatory Commission, or an agreement state, or a licensing state whose specific license authorizes the person to receive the device and within thirty days after transfer of a device to a specific licensee shall furnish to the department a report containing identification of the device by manufacturer's name, model number and the name and address of the person receiving the device. No report is required if the device is transferred to the specific licensee in order to obtain a replacement device;

(viii) Shall transfer the device to another general licensee only:

(A) Where the device remains in use at a particular location. In such case, the transferor shall give the transferee a copy of this subsection and any safety documents identified in the label of the device and within thirty days of the transfer, report to the department the manufacturer's name, model number of device transferred, the name and address of the transferee, and the name and/or position of an individual who may constitute a point of contact between the department and the transferee; or

(B) Where the device is held in storage in the original shipping container at its intended location of use prior to initial use by a general licensee:

(ix) Shall comply with the provisions of WAC 246-221-240 and 246-221-250 for reporting radiation incidents, theft or loss of licensed material, but shall be exempt from the other requirements of chapters 246-221 and 246-222 WAC.

(d) The general license in (a) of this subsection does not authorize the manufacture, import or export of devices containing radioactive material.

(e) The general license provided in this subsection is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-070, 246-220-100, 246-232-050, 246-232-070, 246-232-080, and 246-232-090.

**(5) Luminous safety devices for aircraft.**

(a) A general license is hereby issued to own, receive, acquire, possess and use tritium or Promethium-147 con-

tained in luminous safety devices for use in aircraft, provided:

(i) Each device contains not more than 10 curies of tritium or 300 millicuries of Promethium-147; and

(ii) Each device has been manufactured, assembled or imported in accordance with a specific license issued by the United States Nuclear Regulatory Commission, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license issued by the department or any agreement state to the manufacturer or assembler of such device pursuant to licensing requirements equivalent to those in Section 32.53 of 10 CFR Part 32 of the regulations of the United States Nuclear Regulatory Commission.

(b) Persons who own, receive, acquire, possess or use luminous safety devices pursuant to the general license in this subsection are exempt from the requirements of chapters 246-221 and 246-222 WAC except that they shall comply with the provisions of WAC 246-221-240 and 246-221-250.

(c) This general license does not authorize the manufacture, assembly, or repair of luminous safety devices containing tritium or Promethium-147.

(d) This general license does not authorize the ownership, receipt, acquisition, possession or use of Promethium-147 contained in instrument dials.

(e) This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-050, 246-220-060, 246-220-070, 246-220-100, 246-232-050, 246-232-070, 246-232-080, and 246-232-090.

(6) **Ownership of radioactive material.** A general license is hereby issued to own radioactive material without regard to quantity. Notwithstanding any other provisions of this chapter, this general license does not authorize the manufacture, production, transfer, receipt, possession or use of radioactive material.

**(7) Calibration and reference sources.**

(a) A general license is hereby issued to those persons listed below to own, receive, acquire, possess, use and transfer, in accordance with the provisions of (d) and (e) of this subsection, Americium-241 in the form of calibration or reference sources:

(i) Any person who holds a specific license issued by the department which authorizes that person to receive, possess, use and transfer radioactive material; or

(ii) Any person who holds a specific license issued by the United States Nuclear Regulatory Commission which authorizes that person to receive, possess, use and transfer special nuclear material.

(b) A general license is hereby issued to own, receive, possess, use and transfer plutonium in the form of calibration or reference sources in accordance with the provisions of (d) and (e) of this subsection to any person who holds a specific license issued by the department which authorizes that person to receive, possess, use and transfer radioactive material.

(c) A general license is hereby issued to own, receive, possess, use and transfer Radium-226 in the form of calibration or reference sources in accordance with the provisions of (d) and (e) of this subsection to any person who holds a specific license issued by the department which authorizes that

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person to receive, possess, use and transfer radioactive material.

(d) The general licenses in (a), (b) and (c) of this subsection apply only to calibration or reference sources which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer or importer of the sources by the United States Nuclear Regulatory Commission pursuant to Section 32.57 of 10 CFR Part 32 or Section 70.39 of 10 CFR Part 70 or which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer by the department or any agreement state or licensing state pursuant to licensing requirements equivalent to those contained in Section 32.57 of 10 CFR Part 32 or Section 70.39 of 10 CFR Part 70 of the regulations of the United States Nuclear Regulatory Commission.

(e) The general licenses provided in (a), (b) and (c) of this subsection are subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-070, 246-220-100, 246-232-050, 246-232-070, 246-232-080, 246-232-090, chapters 246-221 and 246-222 WAC.

In addition, persons who own, receive, acquire, possess, use or transfer one or more calibration or reference sources pursuant to these general licenses:

(i) Shall not possess at any one time, at any one location of storage or use, more than 5 microcuries of Americium-241 and 5 microcuries of plutonium and 5 microcuries of Radium-226 in such sources;

(ii) Shall not receive, possess, use or transfer such source unless the source, or the storage container, bears a label which includes one of the following statements or a substantially similar statement which contains the information called for in the following statement:

(A)

The receipt, possession, use and transfer of this source, Model . . . . ., Serial No. . . . ., are subject to a general license and the regulations of the United States Nuclear Regulatory Commission or of a state with which the commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL - THIS SOURCE CONTAINS (AMERICIUM-241). (PLUTONIUM)\*. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE

.....  
Name of manufacturer or importer

\*Note: Showing only the name of the appropriate material.

(B)

The receipt, possession, use and transfer of this source, Model . . . . ., Serial No. . . . ., are subject to a general license and the regulations of any licensing state. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL - THIS SOURCE CONTAINS RADIUM-226. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

.....  
Name of manufacturer or importer

(iii) Shall not transfer, abandon, or dispose of such source except by transfer to a person authorized by a license from the department, the United States Nuclear Regulatory Commission, or an agreement state or licensing state to receive the source;

(iv) Shall store such source, except when the source is being used, in a closed container adequately designed and constructed to contain Americium-241, Plutonium, or Radium-226/Radon-222 which might otherwise escape during storage; and

(v) Shall not use such source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(f) These general licenses do not authorize the manufacture of calibration or reference sources containing Americium-241, Plutonium, or Radium-226.

(8) **General license for use of radioactive material for certain in vitro clinical or laboratory testing.\***

(a) A general license is hereby issued to any physician, veterinarian, clinical laboratory or hospital to receive, acquire, possess, transfer or use, for any of the following stated tests, in accordance with the provisions of or use, for any of the following stated tests, in accordance with the provisions of (b), (c), (d), (e), and (f) of this subsection the following radioactive materials in prepackaged units:

(i) Iodine-125, in units not exceeding 10 microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(ii) Iodine-131, in units not exceeding 10 microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(iii) Carbon-14, in units not exceeding 10 microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(iv) Hydrogen-3 (tritium), in units not exceeding 50 microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(v) Iron-59, in units not exceeding 20 microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(vi) Cobalt-57, in units not exceeding 10 microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(vii) Selenium-75, in units not to exceed 10 microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

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(viii) Mock Iodine-125 reference or calibration sources, in units not exceeding 0.05 microcurie of Iodine-129 and 0.005 microcurie of Americium-241 each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

\*Note: The new drug provisions of the Federal Food, Drug and Cosmetic Act also govern the availability and use of any specific diagnostic drugs in interstate commerce.

(b) No person shall receive, acquire, possess, use or transfer radioactive material pursuant to the general license established by (a) of this subsection until that person has received a validated copy of department Form RHF-15 "Certificate-in vitro testing with radioactive material under general license." Annual validation requires resubmittal of revised department Form RHF-15 and submittal of the annual fee to the department. The physician, veterinarian, clinical laboratory or hospital shall furnish on department Form RHF-15 the following information and such other information as may be required by that form:

(i) Name and address of the physician, veterinarian, clinical laboratory or hospital;

(ii) The location of use; and

(iii) A statement that the physician, veterinarian, clinical laboratory or hospital has appropriate radiation measuring instruments to carry out *in vitro* clinical or laboratory tests with radioactive material as authorized under the general license in (a) of this subsection and that such tests will be performed only by personnel competent in the use of such instruments and in the handling of the radioactive material.

(c) A person who receives, acquires, possesses or uses radioactive material pursuant to the general license established by (a) of this subsection shall comply with the following:

(i) The general licensee shall not possess at any one time, pursuant to the general license in (a) of this subsection at any one location of storage or use, a total amount of Iodine-125, Iodine-131, Selenium-75, Iron-59, and/or Cobalt-57 in excess of 200 microcuries.

(ii) The general licensee shall store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection.

(iii) The general licensee shall use the radioactive material only for the uses authorized by (a) of this subsection.

(iv) The general licensee shall not transfer the radioactive material to a person who is not authorized to receive it pursuant to a license issued by the department, the United States Nuclear Regulatory Commission, any agreement state or licensing state, nor transfer the radioactive material in any manner other than in the unopened, labeled shipping container as received from the supplier.

(v) The general licensee shall dispose of the Mock Iodine-125 reference or calibration sources described in (a)(viii) of this subsection as required by WAC 246-221-170.

(d) The general licensee shall not receive, acquire, possess, or use radioactive material pursuant to (a) of this subsection:

(i) Except as prepackaged units which are labeled in accordance with the provision of an applicable specific

license issued pursuant to WAC ((246-235-100(8))) 246-235-097 or in accordance with the provisions of a specific license issued by the United States Nuclear Regulatory Commission, or any agreement state or licensing state which authorizes the manufacture and distribution of Iodine-125, Iodine-131, Carbon-14, Hydrogen-3 (tritium), Iron-59, Selenium-75, Cobalt-57, or Mock Iodine-125 to persons generally licensed under this subsection or its equivalent; and

(ii) Unless one of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for *in vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the United States Nuclear Regulatory Commission or of a state with which the commission has entered into an agreement for the exercise of regulatory authority.

.....  
Name of manufacturer

This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for *in vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a licensing state.

.....  
Name of manufacturer

(e) The physician, veterinarian, clinical laboratory or hospital possessing or using radioactive material under the general license of (a) of this subsection shall report in writing to the department, any changes in the information previously furnished in the "Certificate - *in vitro* testing with radioactive material under general license," department Form RHF-15. The report shall be furnished within thirty days after the effective date of such change.

(f) This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-070, 246-220-090 and 246-220-100. In addition, any person using radioactive material pursuant to the general license of (a) of this subsection is exempt from the requirements of chapters 246-221 and 246-222 WAC with respect to radioactive material covered by that general

license, except that such persons using the Mock Iodine-125 described in (a)(viii) of this subsection shall comply with the provisions of WAC 246-221-170, 246-221-240, and 246-221-250 and of these regulations.

**(9) Ice detection devices.**

(a) A general license is hereby issued to own, receive, acquire, possess, use and transfer Strontium-90 contained in ice detection devices, provided each device contains not more than 50 microcuries of Strontium-90 and each device has been manufactured or imported in accordance with a specific license issued by the United States Nuclear Regulatory Commission or each device has been manufactured in accordance with the specifications contained in a specific license issued by the department or any agreement state to the manufacturer of such device pursuant to licensing requirements equivalent to those in Section 32.61 of 10 CFR Part 32 of the regulations of the United States Nuclear Regulatory Commission.

(b) Persons who own, receive, acquire, possess, use or transfer Strontium-90 contained in ice detection devices pursuant to the general license in (a) of this subsection:

(i) Shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from overheating to the device, discontinue use of the device until it has been inspected, tested for leakage and repaired by a person holding a specific license from the United States Nuclear Regulatory Commission or an agreement state to manufacture or service such devices; or shall dispose of the device pursuant to the provisions of these regulations;

(ii) Shall assure that all labels affixed to the device at the time of receipt, and which bear a statement which prohibits removal of the labels, are maintained thereon; and

(iii) Are exempt from the requirements of chapters 246-221 and 246-222 WAC except that such persons shall comply with the provisions of WAC 246-221-170, 246-221-240, and 246-221-250.

(c) This general license does not authorize the manufacture, assembly, disassembly or repair of Strontium-90 sources in ice detection devices.

(d) This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-070, 246-220-100, 246-232-050, 246-232-070, 246-232-080, and 246-232-090.

**AMENDATORY SECTION** (Amending Order 184, filed 7/24/91, effective 8/24/91)

**WAC 246-235-020 General requirements for the issuance of specific licenses.** A license application will be approved if the department determines that:

(1) The applicant is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in such a manner as to minimize danger to public health and safety or property;

(2) The applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property;

(3) The issuance of the license will not be inimical to the health and safety of the public; and

(4) The applicant satisfies any applicable special requirements in WAC (~~246-235-080, 246-235-090, 246-235-095, 246-235-100, and 246-247-050~~) 246-235-075 through 246-235-110, and chapters 246-239 through 246-252 WAC.

(5) In the case of an application for a license to receive and possess radioactive material for commercial waste disposal by land burial, source material milling, or for the conduct of any other activity which the agency determines will significantly affect the quality of the environment, the department, before commencement of construction of the plant or facility in which the activity will be conducted, has concluded, after independently weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion shall be grounds for denial of a license to receive and possess radioactive material in such plant or facility. As used in this paragraph the term "commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, necessary borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.

**AMENDATORY SECTION** (Amending Order 184, filed 7/24/91, effective 8/24/91)

**WAC 246-235-080 Special requirements for issuance of certain specific licenses for radioactive material.** (1) *Human use of radioactive material in institutions.* In addition to the requirements set forth in WAC 246-235-020 a specific license for human use of radioactive material in institutions will be issued if:

(a) The applicant has appointed a radiation safety committee to coordinate the use of radioactive material throughout that institution and to maintain surveillance over the institution's radiation safety program. Membership of the committee should include a specialist (where applicable a physician) from each department where radioactive material is used, a representative of the institution's management, a representative of the nursing staff, and a person trained in radiation safety. The radiation safety committee shall meet at ~~((intervals not to exceed six months))~~ least quarterly. Minutes shall be taken and maintained for two years for inspection by the department;

(b) The applicant possesses adequate facilities for the clinical care of patients. The applicant is advised that construction of new radioisotope facilities and modification of existing facilities must also comply with the requirements of WAC 246-318-660 of the construction review section of the department;

(c) The physician(s) designated on the application as the individual user(s) has (or have) substantial experience in the handling and administration of radioactive material and, where applicable, the clinical management of radioactive patients; and



(d) If the application is for a license to use unspecified quantities or multiple types of radioactive material, the applicant's staff has substantial experience in the use of a variety of radioactive materials for a variety of human uses.

(2) *Licensing of individual physicians for human use of radioactive material.* In addition to the requirements set forth in WAC 246-235-020 a specific license for the human use of radioactive material will be issued to an individual physician if:

(a) The applicant has access to a hospital possessing adequate facilities to hospitalize and monitor the applicant's radioactive patients whenever it is advisable;

(b) The applicant has extensive experience in the handling and administration of radioactive material and, where applicable, the clinical management of radioactive patients;

(c) The application is for use in the applicant's practice in an office outside a medical institution; and

(d) The department will approve an application by an individual physician or group of physicians for a specific license to receive, possess or use radioactive material on the premises of a medical institution only if:

(i) The use of radioactive material is limited to the:

(A) Administration of radiopharmaceuticals for diagnostic or therapeutic purposes;

(B) Performance of diagnostic studies on patients to whom a radiopharmaceutical has been administered;

(C) Performance of in vitro diagnostic studies; or

(D) Calibration and quality control checks of radioactive assay instrumentation, radiation safety instrumentation and diagnostic instrumentation;

(ii) The physician brings the radioactive material with him or her and removes the radioactive material when he or she departs. (The institution cannot receive, possess or store radioactive material other than the amount of material remaining in the patient); and

(iii) The medical institution does not hold a radioactive material license issued pursuant to the provisions of subsection (1) of this section.

(3) *Specific licenses for certain groups of medical uses of radioactive material.*

(a) Subject to the provisions of (b), (c) and (d) of this subsection an application for a specific license pursuant to subsection (1), (2) or (4) of this section, or for any medical use or uses of radioactive material specified in one or more of Groups I to VI, inclusive, of WAC 246-235-120, Schedule A, will be approved for all of the uses within the group or groups which include the use or uses specified in the application if:

(i) The applicant satisfies the requirements of subsection (1), (2) or (4) of this section;

(ii) The applicant, or the physician designated in the application as the individual user, has adequate clinical experience in the types of uses included in the group or groups;

(iii) The applicant, or the physicians and all other personnel who will be involved in the preparation and use of the radioactive material, have adequate training and experience in the handling of radioactive material appropriate to their participation in the uses included in the group or groups;

(iv) The applicant's radiation detection and measuring instrumentation is adequate for conducting the procedures

involved in the uses included in the group or groups, specifically:

(A) For Groups I through V, applicant must possess and use a calibrated and operable low-range survey instrument with a thin window (less than 7 mg/cm<sup>2</sup>) capable of detecting radiation levels of 0.05 milliroentgen per hour up to at least 20 milliroentgens per hour;

(B) For Groups III, V, and VI, applicant must possess a calibrated and operable high-range survey instrument capable of detecting radiation levels up to at least one Roentgen per hour;

(v) The applicant's radiation safety operating procedures are adequate for handling and disposal of the radioactive material involved in the uses included in the group or groups.

(b) Any licensee or registrant who is authorized to use radioactive material pursuant to one or more groups in (a) of this subsection and WAC 246-235-120, Schedule A, is subject to the following conditions:

(i) For Groups I, II, IV, and V, no licensee or registrant shall receive, possess or use radioactive material except as a radiopharmaceutical manufactured in the form to be administered to the patient, labeled, packaged and distributed in accordance with a specific license issued by the department pursuant to WAC 246-235-100(~~(+0)~~), a specific license issued by the United States Nuclear Regulatory Commission pursuant to Section 32.72 of 10 CFR Part 32, or a specific license issued by an agreement state or a licensing state pursuant to equivalent regulations.

(ii) For Group III, no licensee or registrant shall receive, possess or use generators or reagent kits containing radioactive material (~~or shall use reagent kits that do not contain radioactive material to prepare radiopharmaceuticals containing radioactive material, except:~~

~~(A) Reagent kits not containing radioactive material that are approved by the department, the United States Nuclear Regulatory Commission, an agreement state or a licensing state for use by persons licensed pursuant to this subsection and WAC 246-235-120, Schedule A, or equivalent regulations; or~~

~~(B) Generators or reagent kits containing radioactive material that are)~~ unless manufactured, labeled, packaged and distributed in accordance with a specific license issued by the department pursuant to WAC 246-235-100(~~(+1)~~), a specific license issued by the United States Nuclear Regulatory Commission pursuant to Section 32.73 of 10 CFR Part 32, or a specific license issued by an agreement state or a licensing state pursuant to equivalent regulations.

(iii) For Group VI, no licensee or registrant shall receive, possess or use radioactive material except as contained in a source or device that has been manufactured, labeled, packaged and distributed in accordance with a specific license issued by the department pursuant to WAC (~~(246-235-100(+2))~~) 246-235-102, a specific license issued by the United States Nuclear Regulatory Commission pursuant to Section 32.74 of 10 CFR Part 32, or a specific license issued to the manufacturer by an agreement state or a licensing state pursuant to equivalent regulations.

(iv) For Group III, any licensee or registrant who uses generators or reagent kits shall elute the generator or process radioactive material with the reagent kit in accordance with

instructions which are approved by the department, the United States Nuclear Regulatory Commission, an agreement state or a licensing state and are furnished by the manufacturer on the label attached to or in the leaflet or brochure which accompanies the generator or reagent kit.

~~((v) For Groups I, II and III any licensee using byproduct material for clinical procedures other than those specified in the product labeling (package insert) shall comply with the product labeling regarding:~~

- ~~(A) Chemical and physical form;~~
- ~~(B) Route of administration; and~~
- ~~(C) Dosage range.))~~

(c) Any licensee who is licensed pursuant to (a) of this subsection for one or more of the medical use groups in WAC 246-235-120, Schedule A, also is authorized, subject to the provisions of (c) and (d) of this subsection to receive, possess and use for calibration and reference standards:

(i) Any radioactive material authorized for use ~~((in IND/NDA products))~~ under Group I, Group II, or Group III of WAC 246—235-120, Schedule A, with a half-life not longer than one hundred days, in amounts not to exceed 15 millicuries total;

(ii) Any radioactive material authorized for use ~~((in IND/NDA products))~~ under Group I, Group II, or Group III of WAC 246-235-120, Schedule A, with half-life greater than one hundred days in amounts not to exceed 200 microcuries total;

(iii) Technetium-99m in amounts not to exceed ~~((30))~~ 50 millicuries;

(iv) Any radioactive material excluding Radium-226, in amounts not to exceed ~~((three))~~ fifteen millicuries per sealed source ~~((except Cobalt-57, which may be possessed in amounts not to exceed 5.5 millicuries)))~~, contained in calibration or reference sources that have been manufactured, labeled, packaged, and distributed in accordance with a specific license issued by the department pursuant to WAC ~~((246-235-100(11)))~~ 246-235-102, a specific license issued by the United States Nuclear Regulatory Commission pursuant to Section 32.74 of 10 CFR Part 32, or a specific license issued to the manufacturer by an agreement state or a licensing state pursuant to equivalent regulations.

(d) Leak tests.

(i) Any licensee or registrant who possesses sealed sources as calibration or reference sources pursuant to (c) of this subsection shall cause each sealed source containing radioactive material, other than Hydrogen-3, with a half-life greater than thirty days in any form other than gas to be tested for leakage and/or contamination at intervals not to exceed six months. In the absence of a certificate from a transferor indicating that a test has been made within six months prior to the transfer, the sealed sources shall not be used until tested: *Provided, however,* That no leak tests are required when:

(A) The source contains 100 microcuries or less of beta and/or gamma emitting material or 10 microcuries or less of alpha emitting material;

(B) The sealed source is stored and is not being used: *Provided,* That a physical inventory of the source and wipe surveys of the storage area or storage container are conducted.

(ii) The leak test shall be capable of detecting the presence of 0.005 microcurie of radioactive material on the test sample. The test sample shall be taken from the sealed source or from the surfaces of the device in which the sealed source is mounted or stored on which contamination might be expected to accumulate. Records of leak test results shall be kept in units of microcuries and maintained for inspection by the department.

(iii) If the leak test reveals the presence of 0.005 microcurie or more of removable contamination, the licensee or registrant shall immediately withdraw the sealed source from use and shall cause it to be decontaminated and repaired or to be disposed of in accordance with chapters 246-235 and 246-221 WAC. A report shall be filed within five days of the test with the department describing the equipment involved, the test results, and the corrective action taken.

(e) Any licensee or registrant who possesses and uses calibration and reference sources pursuant to (c)(iv) of this subsection shall:

(i) Follow the radiation safety and handling instructions approved by the department, the United States Nuclear Regulatory Commission, an agreement state or a licensing state and furnished by the manufacturer on the label attached to the source, or permanent container thereof, or in the leaflet or brochure that accompanies the source, and maintain such instruction in a legible and conveniently available form; and

(ii) Conduct a quarterly physical inventory to account for all sources received and possessed. Records of the inventories shall be maintained for inspection by the department and shall include at a minimum the quantities and kinds of radioactive material, location of sources, name of person performing the inventory, and the date of the inventory.

(4) *Human use of sealed sources.* In addition to the requirements set forth in WAC 246-235-020, a specific license for human use of sealed sources will be issued only if the applicant or, if the application is made by an institution, the individual user:

(a) Has specialized training in the diagnostic or therapeutic use of the sealed source considered, or has experience equivalent to such training; and

(b) Is a physician.

(5) *Use of sealed sources in industrial radiography.* In addition to the requirements set forth in WAC 246-235-020, a specific license for use of sealed sources in industrial radiography will be issued if:

(a) The applicant will have an adequate program for training radiographers and radiographer's assistants and submits to the department a schedule or description of such program which specifies the:

(i) Initial training;

(ii) Periodic training;

(iii) On-the-job training;

(iv) Means to be used by the licensee to determine the radiographer's knowledge and understanding of and ability to comply with department regulations and licensing requirements, and the operating and emergency procedures of the applicant; and

(v) Means to be used by the licensee to determine the radiographer's assistant's knowledge and understanding of

and ability to comply with the operating and emergency procedures of the applicant;

(b) The applicant submits to the department and complies with satisfactory written operating and emergency procedures (described in WAC 246-243-140);

(c) The applicant will have a quarterly internal inspection system, to assure that license provisions, regulations, and the applicant's operating and emergency procedures are followed by radiographers and radiographer's assistants. Records of this management control program shall be maintained for two years;

(d) The applicant submits to the department a description of the applicant's overall organizational structure pertaining to the industrial radiography program, including specified delegations of authority and responsibility for operation of the program;

(e) The applicant who desires to conduct leak tests has established adequate procedures to be followed in leak testing sealed sources for possible leakage and contamination and submits to the department a description of such procedures including:

(i) Instrumentation to be used;

(ii) Method of performing tests, e.g., points on equipment to be smeared and method of taking smear; and

(iii) Pertinent experience of the person who will perform the tests;

(f) The licensee shall conduct a program for inspection and maintenance of radiographic exposure devices and storage containers to assure proper functioning of components important to safety.

(6) *Environmentally significant licensing actions.* In addition to the requirements set forth in WAC 246-235-020, a specific license for any activity within the licensing authority of the department which the department determines will significantly affect the radiological quality of the human environment, including those specified in WAC 197-11-845(1) and 246-03-030 (1)(a)(ii) (i.e., licenses to operate low level waste burial facilities or licenses to operate or expand beyond the design capacity, mineral processing facilities or their tailings areas, whose products, or byproducts, have concentrations of naturally occurring radioactive material in excess of exempt concentrations as specified in WAC 246-232-130, Schedule C), will be issued if the following conditions are met:

(a) Environmental impact statement.

(i) The application for a license or license amendment (other than administrative amendments) is accompanied or preceded by a final environmental impact statement or final declaration of nonsignificance completed in accordance with the State Environmental Policy Act (SEPA) procedures and guidelines specified in chapters 197-11 and 246-03 WAC. For any uranium or thorium mill in operation on or before the effective date of this regulation for which an environmental impact statement has not been prepared previously, an application for license renewal must be accompanied or preceded by a final environmental impact statement or final declaration of nonsignificance completed in accordance with SEPA guidelines.

Note: No construction shall be commenced until the license has been issued or unless an emergency exemption from SEPA

requirements is granted in accordance with WAC 197-11-880. For the purposes of this subsection, the term "commencement of construction" means any clearing of land, excavation or other substantial action related to a proposed activity for specific licensing that would adversely affect the natural environment of a site; this term does not include changes desirable for the temporary use of the land for public recreational use, limited borings to determine site characteristics as necessary for environmental assessment, or other preconstruction monitoring to establish background information related to suitability of a site or to the protection of environmental values. In the case where an exemption is granted, the applicant shall assume all financial risk for construction activity; waive any claim of entitlement to the issuance of a license based solely upon the grant of the exemption or the commencement of construction pursuant thereto; and furnish, if the circumstances warrant and the department so requires, a financial surety arrangement to insure the protection of the public health, safety and the environment in the event of abandonment, default, or inability of the license applicant to meet the requirements of the act or these regulations.

(ii) In addition to the information required in chapter 197-11 WAC, the following additional areas shall be addressed in the final environmental impact statement:

(A) Alternative sites to those chosen by the applicant shall include all alternative sites, whether or not those sites are under the control or ownership of the applicant.

(B) Long term impacts shall include, but not be limited to, decommissioning, decontamination, reclamation impacts and material management associated with the proposed activities.

(C) Environmental reviews, dose assessments, ecology, construction effects on biota, impact on the environment from the use of chemicals, and socioeconomic effects shall be addressed.

(D) Alternative disposal sites and techniques for disposal shall be evaluated to determine if a site or technique is clearly superior.

(b) For uranium or thorium milling operations, a bond made payable to the department of health or other acceptable government agency, and in an amount specified by the department, shall be posted to ensure the protection of the public health and safety in the event of abandonment, default or other inability of the licensee to meet the requirements for reclamation and disposal of tailings and for decommissioning the site. The bond, or a copy thereof when the bond is made payable to another government agency, shall be received by the department prior to issuance of the license, or prior to license renewal for mills in operation on or before the effective date of this regulation. Other acceptable surety arrangements in addition to surety bonding include cash deposits, certificates of deposit, deposits of government securities, letters or lines of credit or combinations of the foregoing. The amount and mechanism of the surety arrangement may be reviewed by the department preceding each license renewal and adjustments may be required of the licensee prior to such renewal.

(c) The owner of the proposed uranium or thorium mill and tailings site(s) agrees to transfer or revert to the appropriate state or federal agency upon termination of the license, all lands, buildings and grounds, and any interest therein, necessary to fulfill the purposes of this subsection, except where the lands are held in trust for, or are owned by any Indian

tribe. For any uranium or thorium mill in operation on or before the effective date of this regulation, such an agreement will be required prior to license renewal.

(d) For all uranium and thorium milling operations, the owner or operator shall arrange to pay to the department or its designee a fee in accordance with WAC 246-254-150 for a special security fund for the further maintenance, surveillance or care which may be required after a licensee has ceased to operate.

A minimum fund of two hundred fifty thousand dollars shall be provided by the licensee payable to the state. If a shortfall exists between the amount of money in the special security fund and the two hundred fifty thousand dollars minimum amount, a surety bond, or other acceptable surety instrument as defined above shall be arranged.

(e) The application for a license includes a description of an appropriate program for effluent monitoring, environmental monitoring and data reporting. Such description shall encompass locations, frequency, and types of sampling, analytical plans and procedures, minimum detection levels, sampling equipment and quality assurance programs.

(f) All licensees or registrants required to meet the additional requirements set forth in this subsection shall establish environmental monitoring programs adequate to determine the impact of their activity on the natural environment around the site of their environmentally significant activity. The established environmental and effluent monitoring program shall address all environmentally significant radionuclide releases and external radiation sources caused or threatened to be caused by the licensee's activities.

(i) Effluent and environmental monitoring results shall include the following minimum information as pertinent:

(A) Information as to flow rates, total volume of effluent, peak concentration, concentration of each radionuclide in the effluent averaged over a period of one year at the point where the effluent leaves a stack, tube, pipe, or similar conduit;

(B) A description of the properties of the effluents, including:

(I) Chemical composition;

(II) Physical characteristics, including suspended solids content in liquid effluents, and nature of gas aerosol for air effluents;

(III) The hydrogen ion concentrations (pH) of liquid effluents; and

(IV) The size range of particulates in effluent released into air;

(C) A description of the anticipated human occupancy in the unrestricted area where the highest concentration of radioactive material from the effluent is expected, and, in the case of a river stream a description of water uses downstream from the point of release of the effluent.

(D) Information as to the highest concentration of each radionuclide in an unrestricted area, including anticipated concentrations averaged over a period of one year:

(I) In air at any point of human occupancy; or

(II) In water at points of use downstream from the point of release of the effluent;

(E) The background concentration of radionuclides in the receiving river or stream prior to the release of liquid effluent;

(F) A description of the waste treatment facilities and procedures used to reduce the concentration of radionuclides in effluents prior to their release;

(G) A written description of sampling techniques and sample analysis methods;

(H) A written description of how all calculated results were obtained from sample analysis data. This explanation shall include example calculations and estimates of the precision and sensitivity of monitoring results;

(I) A written description of the licensee's quality control program including specification of control samples and standard samples used.

(ii) The licensee shall submit in writing to the department within sixty days after January 1 and July 1 of each year, reports specifying the quantities of each of the principle radionuclides released to unrestricted areas in liquid and in gaseous effluent during the previous six months of operations. This data shall be reported in a manner that will permit the department to confirm the potential annual radiation doses to the public. All data from the radiological and nonradiological environmental monitoring program will also be submitted for the same time period and frequency as specified above. The data shall be reported in a manner which will allow the department to confirm the potential annual radiation doses to the public.

(g) For land disposal of radioactive material, the provisions of chapter 246-250 WAC must also be met.

(h) For operation of mineral processing facilities, the provisions of chapter 246-252 WAC must also be met.

**AMENDATORY SECTION** (Amending Order 184, filed 7/24/91, effective 8/24/91)

**WAC 246-235-090 Special requirements for specific licenses of broad scope.** This section prescribes requirements for the issuance of specific licenses of broad scope for radioactive material ("broad licenses") and certain regulations governing holders of such licenses.\*

\*Note: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity or other product containing source material or byproduct material whose subsequent possession, use, transfer and disposal by all other persons who are exempted from regulatory requirements may be obtained only from the United States Nuclear Regulatory Commission, Washington, D.C. 20555.

(1) *The different types of broad licenses are set forth below:*

(a) A "Type A specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of the radioactive material specified in the license, but not exceeding quantities specified in the license, for any authorized purpose. The quantities specified are usually in the millicurie range.

(b) A "Type B specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in WAC 246-235-140 Schedule B, for any authorized purpose. The possession limit for a

Type B broad license, if only one radionuclide is possessed thereunder, is the quantity specified for that radionuclide in WAC 246-235-140 Schedule B, Column I. If two or more radionuclides are possessed thereunder, the possession limit for each is determined as follows: For each radionuclide, determine the ratio of the quantity possessed to the applicable quantity specified in WAC 246-235-140 Schedule B, Column I, for that radionuclide. The sum of the ratios for all radionuclides possessed under the license shall not exceed unity.

(c) A "Type C specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in WAC 246-235-140 Schedule B, for any authorized purpose. The possession limit for a Type C broad license, if only one radionuclide is possessed thereunder, is the quantity specified for that radionuclide in WAC 246-235-140 Schedule B, Column II. If two or more radionuclides are possessed thereunder, the possession limit is determined for each as follows: For each radionuclide determine the ratio of the quantity possessed to the applicable quantity specified in WAC 246-235-140 Schedule B, Column II, for that radionuclide. The sum of the ratios for all radionuclides possessed under the license shall not exceed unity.

(2) *An application for a Type A specific license of broad scope will be approved if:*

(a) The applicant satisfies the general requirements specified in WAC 246-235-020.

(b) The applicant has engaged in a reasonable number of activities involving the use of radioactive material; and

(c) The applicant has established administrative controls and provisions relating to organization and management, procedures, recordkeeping, material control and accounting, and management review that are necessary to assure safe operations, including:

(i) The establishment of a radiation safety committee composed of such persons as a radiation safety officer, a representative of management, and persons trained and experienced in the safe use of radioactive material;

(ii) The appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and

(iii) The establishment of appropriate administrative procedures to assure:

(A) Control of procurement and use of radioactive material;

(B) Completion of safety evaluation of proposed uses of radioactive material which take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and

(C) Review, approval, and recording by the radiation safety committee of safety evaluation of proposed uses prepared in accordance with item (2)(c)(iii)(B) of this section prior to use of the radioactive material.

(3) *An application for a Type B specific license of broad scope will be approved if:*

(a) The applicant satisfies the general requirements specified in WAC 246-235-020; and

(b) The applicant has established administrative controls and provisions relating to organization and management, procedures, recordkeeping, material control and accounting, and management review that are necessary to assure safe operations, including:

(i) The appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and

(ii) The establishment of appropriate administrative procedures to assure:

(A) Control of procurement and use of radioactive material;

(B) Completion of safety evaluations of proposed uses of radioactive material which take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and

(C) Review, approval, and recording by the radiation safety officer of safety evaluations of proposed uses prepared in accordance with item (3)(b)(ii)(B) of this section prior to use of the radioactive material.

(4) *An application for a Type C specific license of broad scope will be approved if:*

(a) The applicant satisfies the general requirements specified in WAC 246-235-020.

(b) The applicant submits a statement that radioactive material will be used only by, or under the direct supervision of individuals, who have received:

(i) A college degree at the bachelor level, or equivalent training and experience, in the physical or biological sciences or in engineering; and

(ii) At least forty hours of training and experience in the safe handling of radioactive material, and in the characteristics of ionizing radiation, units of radiation dose and quantities, radiation detection instrumentation, and biological hazards of exposure to radiation appropriate to the type and forms of radioactive material to be used; and

(c) The applicant has established administrative controls and provisions relating to procurement of radioactive material, procedures, recordkeeping, material control and accounting, and management review necessary to assure safe operations.

(5) *Specific licenses of broad scope are subject to the following conditions:*

(a) Unless specifically authorized by the department, persons licensed pursuant to this section shall not:

(i) Conduct tracer studies in the environment involving direct release of radioactive material;

(ii) Receive, acquire, own, possess, use or transfer devices containing 100,000 curies or more of radioactive material in sealed sources used for irradiation of materials;

(iii) Conduct activities for which a specific license issued by the department under WAC 246-235-080 or (~~246-235-100~~) 246-235-091 through 246-235-105 is required; or

(iv) Add or cause the addition of radioactive material to any food, beverage, cosmetic, drug or other product designed for ingestion or inhalation by, or application to, a human being.

(b) Each Type A specific license of broad scope issued under this part shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety committee.

(c) Each Type B specific license of broad scope issued under this part shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety officer.

(d) Each Type C specific license of broad scope issued under this part shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals who satisfy the requirements of subsection (4) of this section.

#### NEW SECTION

**WAC 246-235-091 Manufacture and distribution of industrial products containing depleted uranium under general license.** (1) An application for a specific license to manufacture industrial products and devices containing depleted uranium for use pursuant to WAC 246-233-010(4) or equivalent regulations of the United States Nuclear Regulatory Commission or an agreement state will be approved if:

(a) The applicant satisfies the general requirements specified in WAC 246-235-020;

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses and potential hazards of the industrial product or device to provide reasonable assurance that possession, use or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in one year a radiation dose in excess of ten percent of the limits specified in WAC 246-221-010(1); and

(c) The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

(2) In the case of an industrial product or device whose unique benefits are questionable, the department will approve an application for a specific license under this section only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.

(3) The department may deny any application for a specific license under this section if the end use(s) of the industrial product or device cannot be reasonably foreseen.

(4) Each person licensed pursuant to subsection (1) of this section shall:

(a) Maintain the level of quality control required by the license in the manufacture of the industrial product or device, and in the installation of the depleted uranium into the product or device;

(b) Label or mark each unit to:

(i) Identify the manufacturer of the product or device and the number of the license under which the product or device was manufactured, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium in each product or device; and

(ii) State that the receipt, possession, use and transfer of the product or device are subject to a general license or the equivalent and the regulations of the United States Nuclear Regulatory Commission or of an agreement state;

(c) Assure that the depleted uranium before being installed in each product or device has been impressed with the following legend clearly legible through any plating or other covering: "Depleted uranium";

(d) Furnish to each person to whom depleted uranium in a product or device is transferred for use pursuant to the general license contained in WAC 246-233-010(4) or its equivalent:

(i) A copy of the general license contained in WAC 246-233-010(4) and a copy of department Form RHF-20; or

(ii) A copy of the general license contained in the United States Nuclear Regulatory Commission's or agreement state's regulation equivalent to WAC 246-233-010(4) and a copy of the United States Nuclear Regulatory Commission's or agreement state's certificate, or alternatively, furnish a copy of the general license contained in WAC 246-233-010(4) and a copy of department Form RHF-20 with a note explaining that use of the product or device is regulated by the United States Nuclear Regulatory Commission or an agreement state under requirements substantially the same as those in WAC 246-233-010(4).

(e) Report to the department all transfers of industrial products or devices to persons for use under the general license in WAC 246-233-010(4). Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the department and the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within thirty days after the end of each calendar quarter in which such a product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under chapter 246-233 WAC during the reporting period, the report shall so indicate;

(f) Provide certain other reports as follows:

(i) Report to the United States Nuclear Regulatory Commission all transfers of industrial products or devices to persons for use under the United States Nuclear Regulatory Commission general license in Section 40.25 of 10 CFR Part 40;

(ii) Report to the responsible department all transfers of devices manufactured and distributed pursuant to this section for use under a general license in that state's regulations equivalent to WAC 246-233-010(4);

(iii) Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the department and the general licensee, the type and model number of the device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be sub-

mitted within thirty days after the end of each calendar quarter in which such product or device is transferred to the generally licensed person;

(iv) If no transfers have been made to United States Nuclear Regulatory Commission licensees during the reporting period, this information shall be reported to the United States Nuclear Regulatory Commission;

(v) If no transfers have been made to general licensees within a particular agreement state during the reporting period, this information shall be reported to the responsible department; and

(g) Keep records showing the name, address and point of contact for each general licensee to whom the person transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in WAC 246-233-010(4) or equivalent regulations of the United States Nuclear Regulatory Commission or of an agreement state. The records shall be maintained for a period of two years and shall show the date of each transfer, the quantity of depleted uranium in each product or device transferred, and compliance with the report requirements of this section.

**NEW SECTION**

**WAC 246-235-093 Manufacture, assembly or distribution of devices under general license.** (1) An application for a specific license to manufacture or distribute devices containing radioactive material, excluding special nuclear material, to persons generally licensed under WAC 246-233-020(4) or equivalent regulations of the United States Nuclear Regulatory Commission, an agreement state or a licensing state will be approved if:

(a) The applicant satisfies the general requirements of WAC 246-235-020;

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:

(i) The device can be safely operated by persons not having training in radiological protection;

(ii) Under ordinary conditions of handling, storage and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that any person will receive in one year a dose in excess of ten percent of the limits specified in the table in WAC 246-221-010(1); and

(iii) Under accident conditions (such as fire and explosion) associated with handling, storage and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the following organ doses:

Whole body; head and trunk; active blood-forming organs; gonads; or lens of eye	15 rems
Hands and forearms; feet and ankles; localized areas of skin averaged over areas no larger than one square centimeter	200 rems
Other organs	50 rems

(c) Each device bears a durable, legible, clearly visible label or labels approved by the department, which contain in a clearly identified and separate statement:

(i) Instructions and precautions necessary to assure safe installation, operation and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information);

(ii) The requirement, or lack of requirement, for leak testing, or for testing any on-off mechanism and indicator, including the maximum time interval for such testing, and the identification of radioactive material by isotope, quantity of radioactivity, and date of determination of the quantity; and

(iii) The information called for in one of the following statements, as appropriate, in the same or substantially similar form:

(A) The receipt, possession, use and transfer of this device, Model . . . . ., Serial No. . . . . Note\*, are subject to a general license or the equivalent, and the regulations of the United States Nuclear Regulatory Commission or a state with which the United States Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION - RADIOACTIVE MATERIAL

.....  
(Name of manufacturer or distributor)\*

(B) The receipt, possession, use and transfer of this device, Model . . . . ., Serial No. . . . . Note\*, are subject to a general license or the equivalent, and the regulations of a licensing state. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION - RADIOACTIVE MATERIAL

.....  
(Name of manufacturer or distributor)\*

\*Note: The model, serial number, and name of the manufacturer or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.

(2) In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material or for both, the applicant shall include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the device or similar devices and by design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the department will consider information which includes, but is not limited to:

- (a) Primary containment (source capsule);
- (b) Protection of primary containment;
- (c) Method of sealing containment;

PROPOSED

- (d) Containment construction materials;
- (e) Form of contained radioactive material;
- (f) Maximum temperature withstood during prototype tests;
- (g) Maximum pressure withstood during prototype tests;
- (h) Maximum quantity of contained radioactive material;
- (i) Radiotoxicity of contained radioactive material; and
- (j) Operating experience with identical devices or similarly designed and constructed devices.

(3) In the event the applicant desires that the general licensee under WAC 246-233-020(4), or under equivalent regulations of the United States Nuclear Regulatory Commission, an agreement state or a licensing state be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, the applicant shall include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with such activity or activities, and bases for such estimates. The submitted information shall demonstrate that performance of such activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive in one year a radiation dose in excess of ten percent of the limits specified in the table in WAC 246-221-010(1).

(4) Each person licensed under subsection (1) of this section to distribute devices to generally licensed persons shall:

(a) Furnish a copy of the general license contained in WAC 246-233-020(4) to each person to whom the person directly or through an intermediate person transfers radioactive material in a device for use pursuant to the general license contained in WAC 246-233-020(4);

(b) Furnish a copy of the general license contained in the United States Nuclear Regulatory Commission's, agreement state's, or licensing state's regulation equivalent to WAC 246-233-020(4), or alternatively, furnish a copy of the general license contained in WAC 246-233-020(4) to each person to whom, directly or through an intermediate person, is transferred radioactive material in a device for use pursuant to the general license of the United States Nuclear Regulatory Commission, the agreement state or the licensing state. If a copy of the general license in WAC 246-233-020(4) is furnished to such a person, it shall be accompanied by a note explaining that the use of the device is regulated by the United States Nuclear Regulatory Commission, agreement state or licensing state under requirements substantially the same as those in WAC 246-233-020(4);

(c) Report to the department all transfers of such devices to persons for use under the general license in WAC 246-233-020(4). Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the department and the general licensee, the type and model number of device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name,

address, contact, and relationship to the intended user. If no transfers have been made to persons generally licensed under WAC 246-233-020(4) during the reporting period, the report shall so indicate. The report shall cover each calendar quarter and shall be filed within thirty days thereafter.

(d) Reports to other departments.

(i) Report to the United States Nuclear Regulatory Commission all transfers of such devices to persons for use under the United States Nuclear Regulatory Commission general license in Section 31.5 of 10 CFR Part 31.

(ii) Report to the responsible department all transfers of devices manufactured and distributed pursuant to this section for use under a general license in that state's regulations equivalent to WAC 246-233-020(4).

(iii) Such reports shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the department and the general licensee, the type and model of the device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, contact, and relationship to the intended user. The report shall be submitted within thirty days after the end of each calendar quarter in which such a device is transferred to the generally licensed person.

(iv) If no transfers have been made to United States Nuclear Regulatory Commission licensees during the reporting period, this information shall be reported to the United States Nuclear Regulatory Commission.

(v) If no transfers have been made to general licensees within a particular state during the reporting period, this information shall be reported to the responsible department upon request of the department.

(e) Keep records showing the name, address and the point of contact for each general licensee to whom the person directly or through an intermediate person transfers radioactive material in devices for use pursuant to the general license provided in WAC 246-233-020(4), or equivalent regulations of the United States Nuclear Regulatory Commission, an agreement state or a licensing state. The records shall show the date of each transfer, the radionuclide and the quantity of radioactivity in each device transferred, the identity of any intermediate person, and compliance with the report requirements of subsection (4) of this section.

#### NEW SECTION

**WAC 246-235-095 Manufacture, assembly, or distribution of luminous safety devices, certain calibration sources or ice detectors under general license.** (1) *Special requirements for the manufacture, assembly or repair of luminous safety devices for use in aircraft.* An application for a specific license to manufacture, assemble or repair luminous safety devices containing tritium or promethium-147 for use in aircraft for distribution to persons generally licensed under WAC 246-233-020(5) will be approved subject to the following conditions:



(a) The applicant satisfies the general requirements specified in WAC 246-235-020; and

(b) The applicant satisfies the requirements of Sections 32.53, 32.54, 32.55, 32.56, 32.101 of 10 CFR Part 32 or their equivalent.

(2) *Special requirements for license to manufacture calibration sources containing americium-241, plutonium or radium-226 for distribution to persons generally licensed under WAC 246-233-020(7).* An application for a specific license to manufacture calibration and reference sources containing americium-241, plutonium or radium-226 to persons generally licensed under WAC 246-233-020(7) will be approved subject to the following conditions:

(a) The applicant satisfies the general requirement of WAC 246-235-020; and

(b) The applicant satisfies the requirements of Sections 32.57, 32.58, 32.59, 32.102 of 10 CFR Part 32 and Section 70.39 of 10 CFR Part 70 or their equivalent.

(3) *Licensing the manufacture and distribution of ice detection devices.* An application for a specific license to manufacture and distribute ice detection devices to persons generally licensed under WAC 246-233-020(9) will be approved subject to the following conditions:

(a) The applicant satisfies the general requirements of WAC 246-235-020; and

(b) The criteria of Sections 32.61, 32.62, 32.103 of 10 CFR Part 32 are met.

**NEW SECTION**

**WAC 246-235-097 Manufacture and distribution of radioactive material for certain in vitro clinical or laboratory testing under general license.** An application for a specific license to manufacture or distribute radioactive material for use under the general license of WAC 246-233-020(8) will be approved if:

(1) The applicant satisfies the general requirements specified in WAC 246-235-020;

(2) The radioactive material is to be prepared for distribution in prepackaged units of:

(a) Iodine-125 in units not exceeding 10 microcuries each;

(b) Iodine-131 in units not exceeding 10 microcuries each;

(c) Carbon-14 in units not exceeding 10 microcuries each;

(d) Hydrogen-3 (tritium) in units not exceeding 50 microcuries each;

(e) Iron-59 in units not exceeding 20 microcuries each;

(f) Cobalt-57 in units not exceeding 10 microcuries each;

(g) Selenium-75 in units not exceeding 10 microcuries each;

(h) Mock Iodine-125 in units not exceeding 0.05 microcurie of iodine-129 and 0.005 microcurie of americium-241 each.

(3) Each prepackaged unit bears a durable, clearly visible label:

(a) Identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 10 microcuries of iodine-125,

iodine-131, carbon-14, cobalt-57, or selenium-75; 50 microcuries of hydrogen-3 (tritium); 20 microcuries of iron-59; or Mock Iodine-125 in units not exceeding 0.05 microcurie of iodine-129 and 0.005 microcurie of americium-241 each; and

(b) Displaying the radiation caution symbol described in WAC 246-221-120 (1)(a) and the words, "CAUTION, RADIOACTIVE MATERIAL," and "Not for internal or external use in humans or animals."

(4) One of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

(a) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for *in vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the United States Nuclear Regulatory Commission or of a state with which the commission has entered into an agreement for the exercise of regulatory authority.

.....  
Name of manufacturer

(b) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for *in vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a licensing state.

.....  
Name of manufacturer

(5) The label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate information as to the precautions to be observed in handling and storing such radioactive material. In the case of the Mock Iodine-125 reference or calibration source, the information accompanying the source must also contain directions to the licensee regarding the waste disposal requirements set out in WAC 246-221-170 of these regulations.

**AMENDATORY SECTION** (Amending Order 184, filed 7/24/91, effective 8/24/91)

**WAC 246-235-100 ((Special requirements for a specific license to manufacture, assemble, repair, or distribute commodities, products, or devices which contain radioactive material.)) Manufacture, preparation, or commercial transfer of radiopharmaceuticals for medical use. (1) ((Licensing the introduction of radioactive material into products in exempt concentrations. In addition to the requirements set forth in WAC 246-235-020, a specific license authorizing the introduction of radioactive material into a product or material owned by or in the possession of**

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the licensee or another to be transferred to persons exempt under WAC 246-232-010 (2)(a) will be issued if:

(a) The applicant submits a description of the product or material into which the radioactive material will be introduced, intended use of the radioactive material and the product or material into which it is introduced, method of introduction, initial concentration of the radioactive material in the product or material, control methods to assure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material, and estimated concentration of the radioactive material in the product or material at the time of transfer; and

(b) The applicant provides reasonable assurance that the concentrations of radioactive material at the time of transfer will not exceed the concentrations in WAC 246-232-130, Schedule C, that reconstruction of the radioactive material in concentrations exceeding those in WAC 246-232-130, Schedule C, is not likely, that use of lower concentrations is not feasible, and that the product or material is not likely to be incorporated in any food, beverage, cosmetic, drug or other commodity or product designed for ingestion or inhalation by, or application to a human being.

(c) Each person licensed under subsection (1) of this section shall file an annual report with the department which shall identify the type and quantity of each product or material into which radioactive material has been introduced during the reporting period; name and address of the person who owned or possessed the product and material, into which radioactive material has been introduced, at the time of introduction; the type and quantity of radionuclide introduced into each such product or material; and the initial concentrations of the radionuclide in the product or material at time of transfer of the radioactive material by the licensee. If no transfers of radioactive material have been made pursuant to subsection (1) of this section during the reporting period, the report shall so indicate. The report shall cover the year ending June 30, and shall be filed within thirty days thereafter.

(2) *Licensing the distribution of radioactive material in exempt quantities.*<sup>2</sup>

<sup>2</sup>Note: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing source material or byproduct material whose subsequent possession, use, transfer and disposal by all other persons who are exempted from regulatory requirements may be obtained only from the United States Nuclear Regulatory Commission, Washington, D.C. 20555.

(a) An application for a specific license to distribute naturally occurring and accelerator produced radioactive material (NARM) to persons exempted from these regulations pursuant to WAC 246-232-010 (2)(b) will be approved if:

(i) The radioactive material is not contained in any food, beverage, cosmetic, drug or other commodity designed for ingestion or inhalation by, or application to, a human being;

(ii) The radioactive material is in the form of processed chemical elements, compounds, or mixtures, tissue samples, bioassay samples, counting standards, plated or encapsulated sources, or similar substances, identified as radioactive and to be used for its radioactive properties, but is not incorporated

into any manufactured or assembled commodity, product, or device intended for commercial distribution; and

(iii) The applicant submits copies of prototype labels and brochures and the department approves such labels and brochures.

(b) The license issued under paragraph (2)(a) of this section is subject to the following conditions:

(i) No more than ten exempt quantities shall be sold or transferred in any single transaction. However, an exempt quantity may be composed of fractional parts of one or more of the exempt quantity provided the sum of the fractions shall not exceed unity.

(ii) Each exempt quantity shall be separately and individually packaged. No more than ten such packaged exempt quantities shall be contained in any outer package for transfer to persons exempt pursuant to WAC 246-232-010 (2)(b). The outer package shall be such that the dose rate at the external surface of the package does not exceed 0.5 millirem per hour.

(iii) The immediate container of each quantity or separately packaged fractional quantity of radioactive material shall bear a durable, legible label which:

(A) Identifies the radionuclide and the quantity of radioactivity; and

(B) Bears the words "radioactive material."

(iv) In addition to the labeling information required by item (2)(b)(iii) of this section, the label affixed to the immediate container, or an accompanying brochure, shall:

(A) State that the contents are exempt from licensing state requirements;

(B) Bear the words "Radioactive material—Not for human use—Introduction into foods, beverages, cosmetics, drugs, or medicinals, or into products manufactured for commercial distribution is prohibited—Exempt quantities should not be combined"; and

(C) Set forth appropriate additional radiation safety precautions and instructions relating to the handling, use, storage and disposal of the radioactive material.

(c) Each person licensed under paragraph (2)(a) of this section shall maintain records identifying, by name and address, each person to whom radioactive material is transferred for use under WAC 246-232-010 (2)(b) or the equivalent regulations of a licensing state, and stating the kinds and quantities of radioactive material transferred. An annual summary report stating the total quantity of each radionuclide transferred under the specific license shall be filed with the department. Each report shall cover the year ending June 30, and shall be filed within thirty days thereafter. If no transfers of radioactive material have been made pursuant to subsection (2) of this section during the reporting period, the report shall so indicate.

(3) *Licensing the incorporation of naturally occurring and accelerator produced radioactive material into gas and aerosol detectors.* An application for a specific license authorizing the incorporation of NARM into gas and aerosol detectors to be distributed to persons exempt under WAC 246-232-010 (2)(c)(iii) will be approved if the application satisfies requirements equivalent to those contained in Section 32.26 of 10 CFR Part 32.

~~(4) Licensing the manufacture and distribution of devices to person generally licensed under WAC 246-233-020(4).~~

~~(a) An application for a specific license to manufacture or distribute devices containing radioactive material, excluding special nuclear material, to persons generally licensed under WAC 246-233-020(4) or equivalent regulations of the United States Nuclear Regulatory Commission, an agreement state or a licensing state will be approved if:~~

~~(i) The applicant satisfies the general requirements of WAC 246-235-020;~~

~~(ii) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:~~

~~(A) The device can be safely operated by persons not having training in radiological protection;~~

~~(B) Under ordinary conditions of handling, storage and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that any person will receive in any period of one calendar quarter a dose in excess of ten percent of the limits specified in the table in WAC 246-221-010(1); and~~

~~(C) Under accident conditions (such as fire and explosion) associated with handling, storage and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the following organ doses:~~

Whole body; head and trunk; active blood-forming organs; gonads; or lens of eye .....	15 rems
Hands and forearms; feet and ankles; localized areas of skin averaged over areas no larger than one square centimeter	200 rems
Other organs .....	50 rems

~~(iii) Each device bears a durable, legible, clearly visible label or labels approved by the department, which contain in a clearly identified and separate statement:~~

~~(A) Instructions and precautions necessary to assure safe installation, operation and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information);~~

~~(B) The requirement, or lack of requirement, for leak testing, or for testing any on-off mechanism and indicator, including the maximum time interval for such testing, and the identification of radioactive material by isotope, quantity of radioactivity, and date of determination of the quantity; and~~

~~(C) The information called for in one of the following statements, as appropriate, in the same or substantially similar form:~~

~~(aa) The receipt, possession, use and transfer of this device, Model ....., Serial No. .... Note\*, are subject to a general license or the equivalent, and the regulations of the United States Nuclear Regulatory Commission or a state with which the United States Nuclear Regulatory Commission has entered into an agreement for the exercise of regula-~~

~~tory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.~~

~~CAUTION - RADIOACTIVE MATERIAL~~

~~.....  
(Name of manufacturer or distributor)\*~~

~~(bb) The receipt, possession, use and transfer of this device, Model ....., Serial No. .... Note\*, are subject to a general license or the equivalent, and the regulations of a licensing state. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.~~

~~CAUTION - RADIOACTIVE MATERIAL~~

~~.....  
(Name of manufacturer or distributor)\*~~

~~\*Note: The model, serial number, and name of the manufacturer or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.~~

~~(b) In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material or for both, the applicant shall include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the device or similar devices and by design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the department will consider information which includes, but is not limited to:~~

- ~~(i) Primary containment (source capsule);~~
- ~~(ii) Protection of primary containment;~~
- ~~(iii) Method of sealing containment;~~
- ~~(iv) Containment construction materials;~~
- ~~(v) Form of contained radioactive material;~~
- ~~(vi) Maximum temperature withstood during prototype tests;~~
- ~~(vii) Maximum pressure withstood during prototype tests;~~
- ~~(viii) Maximum quantity of contained radioactive material;~~
- ~~(ix) Radiotoxicity of contained radioactive material; and~~
- ~~(x) Operating experience with identical devices or similarly designed and constructed devices.~~

~~(c) In the event the applicant desires that the general licensee under WAC 246-233-020(4), or under equivalent regulations of the United States Nuclear Regulatory Commission, an agreement state or a licensing state be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, the applicant shall include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with~~

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such activity or activities, and bases for such estimates. The submitted information shall demonstrate that performance of such activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a calendar quarter dose in excess of ten percent of the limits specified in the table in WAC 246-221-010(1).

(d) Each person licensed under paragraph (4)(a) of this section to distribute devices to generally licensed persons shall:

(i) Furnish a copy of the general license contained in WAC 246-233-020(4) to each person to whom the person directly or through an intermediate person transfers radioactive material in a device for use pursuant to the general license contained in WAC 246-233-020(4);

(ii) Furnish a copy of the general license contained in the United States Nuclear Regulatory Commission's, agreement state's, or licensing state's regulation equivalent to WAC 246-233-020(4), or alternatively, furnish a copy of the general license contained in WAC 246-233-020(4) to each person to whom, directly or through an intermediate person, is transferred radioactive material in a device for use pursuant to the general license of the United States Nuclear Regulatory Commission, the agreement state or the licensing state. If a copy of the general license in WAC 246-233-020(4) is furnished to such a person, it shall be accompanied by a note explaining that the use of the device is regulated by the United States Nuclear Regulatory Commission, agreement state or licensing state under requirements substantially the same as those in WAC 246-233-020(4);

(iii) Report to the department all transfers of such devices to persons for use under the general license in WAC 246-233-020(4). Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the department and the general licensee, the type and model number of device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, contact, and relationship to the intended user. If no transfers have been made to persons generally licensed under WAC 246-233-020(4) during the reporting period, the report shall so indicate. The report shall cover each calendar quarter and shall be filed within thirty days thereafter.

(iv) Reports to other departments:

(A) Report to the United States Nuclear Regulatory Commission all transfers of such devices to persons for use under the United States Nuclear Regulatory Commission general license in Section 31.5 of 10 CFR Part 31.

(B) Report to the responsible department all transfers of devices manufactured and distributed pursuant to subsection (4) of this section for use under a general license in that state's regulations equivalent to WAC 246-233-020(4).

(C) Such reports shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the depart-

ment and the general licensee, the type and model of the device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, contact, and relationship to the intended user. The report shall be submitted within thirty days after the end of each calendar quarter in which such a device is transferred to the generally licensed person.

(D) If no transfers have been made to United States Nuclear Regulatory Commission licensees during the reporting period, this information shall be reported to the United States Nuclear Regulatory Commission.

(E) If no transfers have been made to general licensees within a particular state during the reporting period, this information shall be reported to the responsible department upon request of the department.

(v) Keep records showing the name, address and the point of contact for each general licensee to whom the person directly or through an intermediate person transfers radioactive material in devices for use pursuant to the general license provided in WAC 246-233-020(4), or equivalent regulations of the United States Nuclear Regulatory Commission, an agreement state or a licensing state. The records shall show the date of each transfer, the radionuclide and the quantity of radioactivity in each device transferred, the identity of any intermediate person, and compliance with the report requirements of paragraph (4)(d) of this section.

(5) *Special requirements for the manufacture, assembly or repair of luminous safety devices for use in aircraft.* An application for a specific license to manufacture, assemble or repair luminous safety devices containing tritium or promethium-147 for use in aircraft for distribution to persons generally licensed under WAC 246-233-020(5) will be approved subject to the following conditions:

(a) The applicant satisfies the general requirements specified in WAC 246-235-020; and

(b) The applicant satisfies the requirements of Sections 32.53, 32.54, 32.55, 32.56, 32.101 of 10 CFR Part 32 or their equivalent.

(6) *Special requirements for license to manufacture calibration sources containing americium-241, plutonium or radium-226 for distribution to persons generally licensed under WAC 246-233-020(7).* An application for a specific license to manufacture calibration and reference sources containing americium-241, plutonium or radium-226 to persons generally licensed under WAC 246-233-020(7) will be approved subject to the following conditions:

(a) The applicant satisfies the general requirement of WAC 246-235-020; and

(b) The applicant satisfies the requirements of Sections 32.57, 32.58, 32.59, 32.102 of 10 CFR Part 32 and Section 70.39 of 10 CFR Part 70 or their equivalent.

(7) *Manufacture and distribution of radioactive material for certain in vitro clinical or laboratory testing under general license.* An application for a specific license to manufacture or distribute radioactive material for use under the general license of WAC 246-233-020(8) will be approved if:

(a) The applicant satisfies the general requirements specified in WAC 246-235-020;

(b) The radioactive material is to be prepared for distribution in prepackaged units of:

(i) Iodine-125 in units not exceeding 10 microcuries each;

(ii) Iodine-131 in units not exceeding 10 microcuries each;

(iii) Carbon-14 in units not exceeding 10 microcuries each;

(iv) Hydrogen-3 (tritium) in units not exceeding 50 microcuries each;

(v) Iron-59 in units not exceeding 20 microcuries each;

(vi) Cobalt-57 in units not exceeding 10 microcuries each;

(vii) Selenium-75 in units not exceeding 10 microcuries each;

(viii) Mock Iodine-125 in units not exceeding 0.05 microcurie of iodine-129 and 0.005 microcurie of americium-241 each.

(c) Each prepackaged unit bears a durable, clearly visible label:

(i) Identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 10 microcuries of iodine-125, iodine-131, carbon-14, cobalt-57, or selenium-75; 50 microcuries of hydrogen-3 (tritium); 20 microcuries of iron-59; or Mock Iodine-125 in units not exceeding 0.05 microcurie of iodine-129 and 0.005 microcurie of americium-241 each; and

(ii) Displaying the radiation caution symbol described in WAC 246-221-120 (1)(a) and the words, "CAUTION, RADIOACTIVE MATERIAL," and "Not for internal or external use in humans or animals."

(d) One of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

(i) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for *in vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the United States Nuclear Regulatory Commission or of a state with which the commission has entered into an agreement for the exercise of regulatory authority.

Name of manufacturer

(ii) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for *in vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a licensing state.

Name of manufacturer

(c) The label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate information as to the precautions to be observed in handling and storing such radioactive material. In the case of the Mock Iodine-125 reference or calibration source, the information accompanying the source must also contain directions to the licensee regarding the waste disposal requirements set out in WAC 246-221-170 of these regulations.

(8) ~~Licensing the manufacture and distribution of ice detection devices.~~ An application for a specific license to manufacture and distribute ice detection devices to persons generally licensed under WAC 246-233-020(9) will be approved subject to the following conditions:

(a) The applicant satisfies the general requirements of WAC 246-235-020; and

(b) The criteria of Sections 32.61, 32.62, 32.103 of 10 CFR Part 32 are met.

(9) ~~Manufacture and distribution of radiopharmaceuticals containing radioactive material for medical use under group licenses.~~ An application for a specific license to manufacture and ((distribute)), prepare, or transfer for commercial distribution radiopharmaceuticals containing radioactive material for use by persons licensed pursuant to WAC 246-235-080 (1), (2), or (3) for ((the uses listed in Group I, Group II, Group IV, or Group V of WAC 246-235-120, Schedule A,)) medical use in humans will be approved if:

(a) The applicant satisfies the general requirements specified in WAC 246-235-020 of this part;

(b) The applicant submits evidence that:

(i) ((The radiopharmaceutical containing radioactive material will be manufactured, labeled and packaged in accordance with the Federal Food, Drug and Cosmetic Act or the Public Health Service Act, such as a new drug application (NDA) approved by the United States Food and Drug Administration (FDA), a biologic product license issued by FDA or a "notice of claimed investigational exemption for a new drug" (IND) that has been accepted by the FDA; or

(ii) The manufacture, compounding and distribution of the radiopharmaceutical containing radioactive material is not subject to the Federal Food, Drug and Cosmetic Act and the Public Health Service Act;)) The applicant is registered or licensed with the U.S. Food and Drug Administration (FDA) as a drug manufacturer; or

(ii) The applicant is licensed as a nuclear pharmacy by the state board of pharmacy;

(c) The applicant submits information on the radionuclide, chemical and physical form, ((packaging including)) maximum activity per ((package)) vial, syringe, generator, or other container of the radiopharmaceutical, and shielding provided by the packaging of the radioactive material which is appropriate for safe handling and storage of radiopharmaceuticals by ((group)) medical use licensees; and

(d) ((The label affixed to each package of the radiopharmaceutical contains information on the radionuclide, quantity and date of assay, and the label affixed to each package, or the leaflet or brochure which accompanies each package, contains a statement that the radiopharmaceutical is licensed

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by the department for distribution to persons licensed pursuant to WAC 246-235-080(3) and 246-235-120 Schedule A, Group I, Group II, Group IV, and Group V, as appropriate, or under equivalent regulations of the United States Nuclear Regulatory Commission, an agreement state or a licensing state.) The applicant satisfies the labeling requirements specified by the state board of pharmacy in WAC 246-903-020. For a drug manufacturer, the labels (, leaflets or brochures) required by this subsection ((9) of this section) are in addition to the labeling required by the Food and Drug Administration (FDA) and ((they)) may be separate from or, with the approval of FDA, may be combined with the labeling required by FDA.

~~((10) Manufacture and distribution of generators or reagent kits for preparation of radiopharmaceuticals containing radioactive material. An application for a specific license to manufacture and distribute generators or reagent kits containing radioactive material for preparation of radiopharmaceuticals by persons licensed pursuant to WAC 246-235-080(3) for the uses listed in Group III of WAC 246-235-120, Schedule A will be approved if:~~

~~(a) The applicant satisfies the general requirements specified in WAC 246-235-020;~~

~~(b) The applicant submits evidence that:~~

~~(i) The generator or reagent kit is to be manufactured, labeled and packaged in accordance with the Federal Food, Drug and Cosmetic Act or the Public Health Service Act, such as a new drug application (NDA) approved by the Food and Drug Administration (FDA), a biologic product license issued by FDA, or a "Notice of claimed investigational exemption for a new drug" (IND) that has been accepted by the FDA; or~~

~~(ii) The manufacture and distribution of the generator or reagent kit are not subject to the Federal Food, Drug and Cosmetic Act and the Public Health Service Act;~~

~~(c) The applicant submits information on the radionuclide, chemical and physical form, packaging including maximum activity per package, and shielding provided by the packaging of the radioactive material contained in the generator or reagent kit;~~

~~(d) The label affixed to the generator or reagent kit contains information on the radionuclide, quantity, and date of assay; and~~

~~(e) The label affixed to the generator or reagent kit, or the leaflet or brochure which accompanies the generator or reagent kit, contains:~~

~~(i) Adequate information, from a radiation safety standpoint, on the procedures to be followed and the equipment and shielding to be used in eluting the generator or processing radioactive material with the reagent kit; and~~

~~(ii) A statement that this generator or reagent kit (as appropriate) is approved for use by persons licensed by the department pursuant to WAC 246-235-080(3) and Group III of WAC 246-235-120, Schedule A, or under equivalent regulations of the United States Nuclear Regulatory Commission, an agreement state or a licensing state. The labels, leaflets or brochures required by subsection (10) of this section are in addition to the labeling required by FDA and they may be separate from or, with the approval of FDA, may be combined with the labeling required by FDA.~~

Note: Although the department does not regulate the manufacture and distribution of reagent kits that do not contain radioactive material, it does regulate the use of such reagent kits for the preparation of radiopharmaceuticals containing radioactive material as part of its licensing and regulation of the users of radioactive material. Any manufacturer of reagent kits that do not contain radioactive material who desires to have reagent kits approved by the department for use by persons licensed pursuant to WAC 246-235-080(3) and Group III of WAC 246-235-120 Schedule A may submit the pertinent information specified in subsection (10) of this section:

~~(11) Manufacture and distribution of sources or devices containing radioactive material for medical use. An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed pursuant to WAC 246-235-080(3) for use as a calibration or reference source or for the uses listed in Group VI of WAC 246-235-120 Schedule A of this part will be approved if:~~

~~(a) The applicant satisfies the general requirements in WAC 246-235-020 of this part;~~

~~(b) The applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:~~

~~(i) The radioactive material contained, its chemical and physical form and amount;~~

~~(ii) Details of design and construction of the source or device;~~

~~(iii) Procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents;~~

~~(iv) For devices containing radioactive material, the radiation profile of a prototype device;~~

~~(v) Details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests;~~

~~(vi) Procedures and standards for calibrating sources and devices;~~

~~(vii) Legend and methods for labeling sources and devices as to their radioactive content; and~~

~~(viii) Instructions for handling and storing the source or device from the radiation safety standpoint, these instructions are to be included on a durable label attached to the source or device or attached to a permanent storage container for the source or device. *Provided*, That instructions which are too lengthy for such label may be summarized on the label and printed in detail on a brochure which is referenced on the label.~~

~~(e) The label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity and date of assay, and a statement that the named source or device is licensed by the department for distribution to persons licensed pursuant to WAC 246-235-080(3) and Group VI of WAC 246-235-120 Schedule A or under equivalent regulations of the United States Nuclear Regulatory Commission, an agreement state or a licensing state. *Provided*, That such labeling for sources which do not require long term storage~~

(e.g., gold-198 seeds) may be on a leaflet or brochure which accompanies the source.

(d) In the event the applicant desires that the source or device be required to be tested for leakage of radioactive material at intervals longer than six months, the applicant shall include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the source.

(e) In determining the acceptable interval for test of leakage of radioactive material, the department will consider information that includes, but is not limited to:

- (i) Primary containment (source capsule);
- (ii) Protection of primary containment;
- (iii) Method of sealing containment;
- (iv) Containment construction materials;
- (v) Form of contained radioactive material;
- (vi) Maximum temperature withstood during prototype tests;
- (vii) Maximum pressure withstood during prototype tests;
- (viii) Maximum quantity of contained radioactive material;
- (ix) Radiotoxicity of contained radioactive material; and
- (x) Operating experience with identical sources or devices or similarly designed and constructed sources or devices.

*(12) Requirements for license to manufacture and distribute industrial products containing depleted uranium for mass volume applications.*

(a) An application for a specific license to manufacture industrial products and devices containing depleted uranium for use pursuant to WAC 246-233-010(4) or equivalent regulations of the United States Nuclear Regulatory Commission or an agreement state will be approved if:

- (i) The applicant satisfies the general requirements specified in WAC 246-235-020;
- (ii) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses and potential hazards of the industrial product or device to provide reasonable assurance that possession, use or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in any period of one calendar quarter a radiation dose in excess of ten percent of the limits specified in WAC 246-221-010(1); and
- (iii) The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

(b) In the case of an industrial product or device whose unique benefits are questionable, the department will approve an application for a specific license under subsection (12) of this section only if the product or device is found to combine a high degree of utility and low probability of uncontrolled

disposal and dispersal of significant quantities of depleted uranium into the environment.

(e) The department may deny any application for a specific license under subsection (12) of this section if the end use(s) of the industrial product or device cannot be reasonably foreseen.

(d) Each person licensed pursuant to paragraph (12)(a) of this section shall:

(i) Maintain the level of quality control required by the license in the manufacture of the industrial product or device; and in the installation of the depleted uranium into the product or device;

(ii) Label or mark each unit to:

(A) Identify the manufacturer of the product or device and the number of the license under which the product or device was manufactured, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium in each product or device; and

(B) State that the receipt, possession, use and transfer of the product or device are subject to a general license or the equivalent and the regulations of the United States Nuclear Regulatory Commission or of an agreement state;

(iii) Assure that the depleted uranium before being installed in each product or device has been impressed with the following legend clearly legible through any plating or other covering: "Depleted uranium";

(iv) Furnish to each person to whom depleted uranium in a product or device is transferred for use pursuant to the general license contained in WAC 246-233-010(4) or its equivalent:

(A) A copy of the general license contained in WAC 246-233-010(4) and a copy of department Form RHF-20; or

(B) A copy of the general license contained in the United States Nuclear Regulatory Commission's or agreement state's regulation equivalent to WAC 246-233-010(4) and a copy of the United States Nuclear Regulatory Commission's or agreement state's certificate, or alternatively, furnish a copy of the general license contained in WAC 246-233-010(4) and a copy of department Form RHF-20 with a note explaining that use of the product or device is regulated by the United States Nuclear Regulatory Commission or an agreement state under requirements substantially the same as those in WAC 246-233-010(4).

(v) Report to the department all transfers of industrial products or devices to persons for use under the general license in WAC 246-233-010(4). Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the department and the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within thirty days after the end of each calendar quarter in which such a product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under chapter 246-233 WAC during the reporting period, the report shall so indicate;

(vi) Provide certain other reports as follows:

(A) Report to the United States Nuclear Regulatory Commission all transfers of industrial products or devices to

persons for use under the United States Nuclear Regulatory Commission general license in Section 40.25 of 10 CFR Part 40;

(B) Report to the responsible department all transfers of devices manufactured and distributed pursuant to subsection (12) of this section for use under a general license in that state's regulations equivalent to WAC 246-233-010(4);

(C) Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the department and the general licensee, the type and model number of the device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within thirty days after the end of each calendar quarter in which such product or device is transferred to the generally licensed person;

(D) If no transfers have been made to United States Nuclear Regulatory Commission licensees during the reporting period, this information shall be reported to the United States Nuclear Regulatory Commission;

(E) If no transfers have been made to general licensees within a particular agreement state during the reporting period, this information shall be reported to the responsible department; and

(vii) Keep records showing the name, address and point of contact for each general licensee to whom the person transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in WAC 246-233-010(4) or equivalent regulations of the United States Nuclear Regulatory Commission or of an agreement state. The records shall be maintained for a period of two years and shall show the date of each transfer, the quantity of depleted uranium in each product or device transferred, and compliance with the report requirements of this section.) (2) A nuclear pharmacy licensee:

(a) May prepare radiopharmaceuticals for medical use provided the radiopharmaceutical is prepared by or under the supervision of an authorized nuclear pharmacist.

(b) May allow a pharmacist to work as an authorized nuclear pharmacist if this individual meets the state board of pharmacy requirements in WAC 246-903-030. Nuclear pharmacists.

(c) Shall provide to the department a copy of each individual's letter of notification from the state board of pharmacy recognizing the individual as a nuclear pharmacist, no later than thirty days after the date the licensee allows the individual to work as an authorized nuclear pharmacist pursuant to (b) of this subsection.

(3) A manufacturer or nuclear pharmacy licensee shall possess and use instrumentation to measure the radioactivity of radiopharmaceuticals. The licensee shall have procedures for use of the instrumentation. The licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta-, or photon-emitting radiopharmaceuticals, prior to transfer for commercial distribution. In addition, the licensee shall:

(a) Perform tests before initial use, periodically, and following repair, on each instrument for accuracy, linearity, and

geometry dependence, as appropriate for the use of the instrument; and make adjustments when necessary; and

(b) Check each instrument for constancy and proper operation at the beginning of each day of use.

(4) Nothing in this section relieves the licensee from complying with applicable FDA, other Federal, and State requirements governing radiopharmaceuticals.

## NEW SECTION

**WAC 246-235-102 Manufacture and distribution of sources or devices containing radioactive material for medical use.** An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed pursuant to WAC 246-235-080(3) for use as a calibration or reference source or for the uses listed in Group VI of WAC 246-235-120 Schedule A of this part will be approved if:

(1) The applicant satisfies the general requirements in WAC 246-235-020 of this part;

(2) The applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

(a) The radioactive material contained, its chemical and physical form and amount;

(b) Details of design and construction of the source or device;

(c) Procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents;

(d) For devices containing radioactive material, the radiation profile of a prototype device;

(e) Details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests;

(f) Procedures and standards for calibrating sources and devices;

(g) Legend and methods for labeling sources and devices as to their radioactive content; and

(h) Instructions for handling and storing the source or device from the radiation safety standpoint, these instructions are to be included on a durable label attached to the source or device or attached to a permanent storage container for the source or device: *Provided*, That instructions which are too lengthy for such label may be summarized on the label and printed in detail on a brochure which is referenced on the label.

(3) The label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity and date of assay, and a statement that the named source or device is licensed by the department for distribution to persons licensed pursuant to WAC 246-235-080(3) and Group VI of WAC 246-235-120 Schedule A or under equivalent regulations of the United States Nuclear Regulatory Commission, an agreement state or a licensing state: *Provided*, That such labeling for sources which do not require long term storage (e.g., gold-198 seeds) may be on a leaflet or brochure which accompanies the source.



(4) In the event the applicant desires that the source or device be required to be tested for leakage of radioactive material at intervals longer than six months, the applicant shall include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the source.

(5) In determining the acceptable interval for test of leakage of radioactive material, the department will consider information that includes, but is not limited to:

- (a) Primary containment (source capsule);
- (b) Protection of primary containment;
- (c) Method of sealing containment;
- (d) Containment construction materials;
- (e) Form of contained radioactive material;
- (f) Maximum temperature withstood during prototype tests;
- (g) Maximum pressure withstood during prototype tests;
- (h) Maximum quantity of contained radioactive material;
- (i) Radiotoxicity of contained radioactive material; and
- (j) Operating experience with identical sources or devices or similarly designed and constructed sources or devices.

#### NEW SECTION

#### **WAC 246-235-105 Manufacture, assembly or distribution of radioactive material exempt from regulation.**

(1) *Licensing the introduction of radioactive material into products in exempt concentrations.* In addition to the requirements set forth in WAC 246-235-020, a specific license authorizing the introduction of radioactive material into a product or material owned by or in the possession of the licensee or another to be transferred to persons exempt under WAC 246-232-010 (2)(a) will be issued if:

(a) The applicant submits a description of the product or material into which the radioactive material will be introduced, intended use of the radioactive material and the product or material into which it is introduced, method of introduction, initial concentration of the radioactive material in the product or material, control methods to assure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material, and estimated concentration of the radioactive material in the product or material at the time of transfer; and

(b) The applicant provides reasonable assurance that the concentrations of radioactive material at the time of transfer will not exceed the concentrations in WAC 246-232-130, Schedule C, that reconstruction of the radioactive material in concentrations exceeding those in WAC 246-232-130, Schedule C, is not likely, that use of lower concentrations is not feasible, and that the product or material is not likely to be incorporated in any food, beverage, cosmetic, drug or other commodity or product designed for ingestion or inhalation by, or application to a human being.

(c) Each person licensed under subsection (1) of this section shall file an annual report with the department which

shall identify the type and quantity of each product or material into which radioactive material has been introduced during the reporting period; name and address of the person who owned or possessed the product and material, into which radioactive material has been introduced, at the time of introduction; the type and quantity of radionuclide introduced into each such product or material; and the initial concentrations of the radionuclide in the product or material at time of transfer of the radioactive material by the licensee. If no transfers of radioactive material have been made pursuant to subsection (1) of this section during the reporting period, the report shall so indicate. The report shall cover the year ending June 30, and shall be filed within thirty days thereafter.

(2) Licensing the distribution of certain radioactive material in exempt quantities.\*

\*Note: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing source material or byproduct material whose subsequent possession, use, transfer and disposal by all other persons who are exempted from regulatory requirements may be obtained only from the United States Nuclear Regulatory Commission, Washington, D.C. 20555.

(a) An application for a specific license to distribute naturally occurring and accelerator-produced radioactive material (NARM) to persons exempted from these regulations pursuant to WAC 246-232-010 (2)(b) will be approved if:

(i) The radioactive material is not contained in any food, beverage, cosmetic, drug or other commodity designed for ingestion or inhalation by, or application to, a human being;

(ii) The radioactive material is in the form of processed chemical elements, compounds, or mixtures, tissue samples, bioassay samples, counting standards, plated or encapsulated sources, or similar substances, identified as radioactive and to be used for its radioactive properties, but is not incorporated into any manufactured or assembled commodity, product, or device intended for commercial distribution; and

(iii) The applicant submits copies of prototype labels and brochures and the department approves such labels and brochures.

(b) The license issued under paragraph (2)(a) of this section is subject to the following conditions:

(i) No more than ten exempt quantities shall be sold or transferred in any single transaction. However, an exempt quantity may be composed of fractional parts of one or more of the exempt quantity provided the sum of the fractions shall not exceed unity.

(ii) Each exempt quantity shall be separately and individually packaged. No more than ten such packaged exempt quantities shall be contained in any outer package for transfer to persons exempt pursuant to WAC 246-232-010 (2)(b). The outer package shall be such that the dose rate at the external surface of the package does not exceed 0.5 millirem per hour.

(iii) The immediate container of each quantity or separately packaged fractional quantity of radioactive material shall bear a durable, legible label which:

(A) Identifies the radionuclide and the quantity of radioactivity; and

(B) Bears the words "radioactive material."

(iv) In addition to the labeling information required by item (2)(b)(iii) of this section, the label affixed to the immediate container, or an accompanying brochure, shall:

(A) State that the contents are exempt from licensing state requirements;

(B) Bear the words "Radioactive material—Not for human use—Introduction into foods, beverages, cosmetics, drugs, or medicinals, or into products manufactured for commercial distribution is prohibited—Exempt quantities should not be combined"; and

(C) Set forth appropriate additional radiation safety precautions and instructions relating to the handling, use, storage and disposal of the radioactive material.

(c) Each person licensed under paragraph (2)(a) of this section shall maintain records identifying, by name and address, each person to whom radioactive material is transferred for use under WAC 246-232-010 (2)(b) or the equivalent regulations of a licensing state, and stating the kinds and quantities of radioactive material transferred. An annual summary report stating the total quantity of each radionuclide transferred under the specific license shall be filed with the department. Each report shall cover the year ending June 30, and shall be filed within thirty days thereafter. If no transfers of radioactive material have been made pursuant to subsection (2) of this section during the reporting period, the report shall so indicate.

(3) *Licensing the incorporation of naturally occurring and accelerator-produced radioactive material into gas and aerosol detectors.* An application for a specific license authorizing the incorporation of NARM into gas and aerosol detectors to be distributed to persons exempt under WAC 246-232-010 (2)(c)(iii) will be approved if the application satisfies requirements equivalent to those contained in Section 32.26 of 10 CFR Part 32.

**AMENDATORY SECTION** (Amending Order 184, filed 7/24/91, effective 8/24/91)

**WAC 246-235-120 Schedule A groups of medical uses of radioactive material** (ref. WAC 246-235-080(3) and 246-235-100(9)). (1) *Group I.* Use of prepared radiopharmaceuticals for certain diagnostic studies involving measurements of uptake, dilution and excretion. This group does not include imaging or localization studies.

(a) Any radioactive material in a radiopharmaceutical and for a diagnostic use involving measurements of uptake, dilution or excretion (~~(for which a "Notice of claimed investigational exemption for a new drug" (IND) has been accepted by the Food and Drug Administration (FDA) or for which a "New drug application" (NDA) is in effect)~~) obtained from a manufacturer or preparer licensed pursuant to WAC 246-235-100, 10 CFR 32.72 or equivalent regulation of an agreement state or licensing state; or prepared by an authorized nuclear pharmacist, a physician who is an authorized user for this group of medical uses, or an individual under the supervision of either as permitted by statute.

(b) The provisions of (a) of this subsection notwithstanding, no radioactive material in gaseous form or for use as an aerosol is permitted by this subsection except as specifically authorized in a license.

(2) *Group II.* Use of prepared radiopharmaceuticals for diagnostic imaging and localization studies.

(a) Any radioactive material in a radiopharmaceutical and for a diagnostic use involving imaging or localizing (~~(for which a "Notice of claimed investigational exemption for a new drug" (IND) has been accepted by the Food and Drug Administration (FDA) or for which a "New drug application" (NDA) is in effect)~~) obtained from a manufacturer or preparer licensed pursuant to WAC 246-235-100, 10 CFR 32.72 or equivalent regulation of an agreement state or licensing state; or prepared by an authorized nuclear pharmacist, a physician who is an authorized user for this group of medical uses, or an individual under the supervision of either as permitted by statute;

(b) The provisions of (a) of this subsection notwithstanding, no radioactive material in gaseous form or for use as an aerosol is permitted by this subsection except as specifically authorized by a license or subsection (3)(b) of this section.

(3) *Group III.* Use of generators and reagent kits for the preparation and use of radiopharmaceuticals containing radioactive material for diagnostic imaging and localization studies.

(a) Any generator or reagent kit for preparation and diagnostic use of a radiopharmaceutical containing radioactive material (~~(for which generator or reagent kit a "Notice of claimed investigational exemption of a new drug" (IND) has been accepted by the Food and Drug Administration (FDA) or for which a "New drug application" (NDA) is in effect)~~) obtained from a manufacturer or preparer licensed pursuant to WAC 246-235-100, 10 CFR 32.72 or equivalent regulation of an agreement state or licensing state; or prepared by an authorized nuclear pharmacist, a physician who is an authorized user for this group of medical uses, or an individual under the supervision of either as permitted by statute.

(b) The provisions of (a) of this subsection notwithstanding, no generator or reagent kit is authorized for preparation of any gaseous form or aerosol of a radioactive material, except Technetium-99m as sodium pentetate as an aerosol for pulmonary function studies when used only with an approved and shielded delivery system, and disposed in accordance with applicable requirements, or as specifically authorized in a license.

(4) *Group IV.* Use of prepared radiopharmaceuticals for certain therapeutic uses that do not normally require hospitalization for purposes of radiation safety.

(a) Iodine-131 as iodide for treatment of hyperthyroidism and cardiac dysfunction;

(b) Phosphorus-32 as soluble phosphate for treatment of polycythemia vera, leukemia and bone metastases;

(c) Phosphorus-32 as colloidal chromic phosphate for intracavitary treatment of malignant effusions;

(d) Any radioactive material in a radiopharmaceutical and for a therapeutic use not normally requiring hospitalization for purposes of radiation safety (~~(for which a "Notice of claimed investigational exemption for a new drug" (IND) has been accepted by the Food and Drug Administration (FDA) or for which a "New drug application" (NDA) is in effect)~~) obtained from a manufacturer or preparer licensed pursuant to WAC 246-235-100, 10 CFR 32.72 or equivalent regulation of an agreement state or licensing state; or prepared by an

authorized nuclear pharmacist, a physician who is an authorized user for this group of medical uses, or an individual under the supervision of either as permitted by statute.

(5) *Group V.* Use of prepared radiopharmaceuticals for certain therapeutic uses that normally require hospitalization for purposes of radiation safety.

(a) Gold-198 as colloid for intracavitary treatment of malignant effusions;

(b) Iodine-131 as iodide for treatment of thyroid carcinoma;

(c) Any radioactive material in a radiopharmaceutical and for a therapeutic use normally requiring hospitalization for radiation safety reasons ~~((for which a "Notice of claimed investigational exemption for a new drug" (IND) has been accepted by the Food and Drug Administration (FDA) or for which a "New drug application" (NDA) is in effect))~~ obtained from a manufacturer or preparer licensed pursuant to WAC 246-235-100, 10 CFR 32.72 or equivalent regulation of an agreement state or licensing state; or prepared by an authorized nuclear pharmacist, a physician who is an authorized user for this group of medical uses, or an individual under the supervision of either as permitted by statute.

(6) *Group VI.* Use of sources and devices containing radioactive material for certain medical uses.

(a) Americium-241 as a sealed source in a device for bone mineral analysis;

(b) Cesium-137 encased in needles and applicator cells for topical, interstitial, and intracavitary treatment of cancer;

(c) Cobalt-60 encased in needles and applicator cells for topical, interstitial, and intracavitary treatment of cancer;

(d) Gold-198 as seeds for interstitial treatment of cancer;

(e) Iodine-125 as a sealed source in a device for bone mineral analysis;

(f) Gadolinium-153 as a sealed source in a device for bone mineral analysis;

(g) Iridium-192 as seeds encased in nylon ribbon for interstitial treatment of cancer;

(h) Strontium-90 sealed in an applicator for treatment of superficial eye conditions; and

(i) Iodine-125 as seeds for interstitial treatment of cancer.

**AMENDATORY SECTION** (Amending Order 245, filed 2/21/92, effective 3/23/92)

**WAC 246-239-010 Definitions.** (1) "Authorized nuclear pharmacist" means a pharmacist who is identified as an authorized nuclear pharmacist on a department license that authorizes the use of radioactive material in the practice of nuclear pharmacy.

(2) "Authorized user" means a physician who is identified as an authorized user on a department, U.S. Nuclear Regulatory Commission or agreement state license that authorizes the medical use of radioactive material.

(3) "Diagnostic clinical procedures manual" means a collection of written procedures that describes each method (and other instructions and precautions) by which the licensee performs diagnostic clinical procedures; where each diagnostic clinical procedure has been approved by the authorized user

and includes the radiopharmaceutical, dosage, and route of administration.

~~((2))~~ (4) "Medical use" means the intentional internal or external administration of radioactive material or the radiation therefrom to patients or human research subjects under the supervision of an authorized user.

(5) "Nuclear medicine" means the intentional internal or external administration of unsealed radioactive material to human beings.

~~((3))~~ (6) "Nuclear medicine technologist" means any individual who performs nuclear medical procedures under the supervision of a physician licensed pursuant to chapter 246-235 WAC.

~~((4))~~ (7) "Prescribed dosage" means the quantity of radiopharmaceutical activity as documented:

(a) In a written directive; or

(b) Either in the diagnostic clinical procedures manual or in any appropriate record in accordance with the directions of the authorized user for diagnostic procedures.

~~((5))~~ (8) "Radiopharmaceutical misadministration" means the administration of:

(a) A radiopharmaceutical dosage greater than 30 microcuries of sodium iodide I-125 or I-131:

(i) Involving the wrong ~~((patient))~~ individual or wrong radiopharmaceutical; or

(ii) When both the administered dosage differs from the prescribed dosage by more than twenty percent of the prescribed dosage, and the difference between the administered dosage and prescribed dosage exceeds 30 microcuries;

(b) A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131:

(i) Involving the wrong ~~((patient))~~ individual, wrong radiopharmaceutical, or wrong route of administration; or

(ii) When the administered dosage differs from the prescribed dosage by more than twenty percent of the prescribed dosage;

(c) A diagnostic radiopharmaceutical dosage, other than quantities greater than 30 microcuries of sodium iodide I-125 or I-131, both:

(i) Involving the wrong ~~((patient))~~ individual, wrong radiopharmaceutical, wrong route of administration, or when the administered dosage differs from the prescribed dosage; and

(ii) When the dose to the ~~((patient))~~ individual exceeds 5 rems effective dose equivalent or 50 rems dose equivalent to any individual organ.

~~((6))~~ (9) "Recordable event" means the administration of:

(a) A radiopharmaceutical without a written directive where a written directive is required;

(b) A radiopharmaceutical where a written directive is required without daily recording of each administered radiopharmaceutical dosage in the appropriate record;

(c) A radiopharmaceutical dosage greater than 30 microcuries of either sodium iodide I-125 or I-131 when both:

(i) The administered dosage differs from the prescribed dosage by more than 10 percent of the prescribed dosage; and

(ii) The difference between the administered dosage and prescribed dosage exceeds 15 microcuries;

(d) A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131, when the administered dosage differs from the prescribed dosage by more than 10 percent of the prescribed dosage.

(10) "Training" means instruction or experience acquired under the direct supervision of a physician, a certified/registered nuclear medicine technologist, and/or a qualified expert who has the necessary knowledge and training to advise personnel on radiation protection.

~~((7))~~ (11) "Written directive" means an order in writing for a specific patient or human research subject, dated and signed by an authorized user prior to the administration of a radiopharmaceutical, containing the following information:

(a) For any administration of quantities greater than 30 microcuries of sodium iodide I-125 or I-131: The dosage;

(b) For a therapeutic administration of a radiopharmaceutical other than sodium iodide I-125 or I-131: The radiopharmaceutical, dosage, and route of administration.

**AMENDATORY SECTION** (Amending WSR 94-06-017, filed 2/22/94, effective 3/25/94)

**WAC 246-239-022 Policy and procedures for radiopharmaceutical administration.** (1) Each licensee shall establish and maintain a written program to provide assurance that radioactive material or radiation from radioactive material will be administered as directed by the authorized user ordering the administration. The program must include written policies and procedures to meet the following specific objectives:

(a) That, prior to administration, a written directive is prepared for:

(i) Any administration of quantities greater than 30 microcuries of sodium iodide I-131; or

(ii) Any therapeutic administration of a radiopharmaceutical, other than sodium iodide I-131. A written revision to an existing written directive may be made for any diagnostic or therapeutic procedure provided the revision is dated and signed by the authorized user prior to the administration of the radiopharmaceutical or radiobiologic dosage. If a delay would jeopardize the patient's health, and the authorized user is not personally assaying and administering the dose, an oral directive or revision to an existing written directive will be acceptable, provided the oral revision is documented immediately in the patient's chart or record, and the revised written directive is signed by the authorized user within forty-eight hours of the oral revision;

Note: A written directive is not required when an authorized user personally assays and administers a dosage provided the pertinent facts are documented as otherwise required.

(b) That, prior to each administration, the patient's identity is verified by more than one method as the individual named in the written directive;

(c) That each administration is in accordance with the written directive; and

(d) That any unintended deviation from the written directive is identified and evaluated, and appropriate action is taken.

(2) The licensee shall:

(a) Develop procedures for and conduct a review of the radiopharmaceutical administration program including, since the last review, an evaluation of:

(i) A representative sample of patient and human research subject administrations;

(ii) All recordable events; and

(iii) All misadministrations to verify compliance with all aspects of the radiopharmaceutical administration program; these reviews shall be conducted at intervals no greater than twelve months;

(b) Evaluate each of these reviews to determine the effectiveness of the radiopharmaceutical administration program and, if required, make modifications to meet the objectives of subsection (1) of this section; and

(c) Retain records of each review, including the evaluations and findings of the review, in an auditable form for three years.

(3) The licensee shall evaluate and respond, within thirty days after discovery of the recordable event, to each recordable event by:

(a) Assembling the relevant facts including the cause;

(b) Identifying what, if any, corrective action is required to prevent recurrence; and

(c) Retaining a record, in an auditable form, for three years, of the relevant facts and what corrective action, if any, was taken.

~~((3))~~ (4) The licensee shall retain:

(a) Each written directive (provided, however, that such written directive is not required if the dose is both personally assayed and administered by the authorized user); and

(b) A record of each administered radiation dose or radiopharmaceutical dosage where a written directive is required in subsection (1)(a) of this section, in an auditable form, for three years after the date of administration.

~~((4))~~ (5) The licensee may make modifications to the program to increase the program's efficiency provided the program's effectiveness is not decreased.

**AMENDATORY SECTION** (Amending Order 245, filed 2/21/92, effective 3/23/92)

**WAC 246-239-025 Notifications, records, and reports of radiopharmaceutical misadministrations.** (1) The licensee shall notify the department by telephone at (206) 682-5327 no later than the next calendar day after the discovery of a radiopharmaceutical misadministration.

(2) The licensee also shall notify the referring physician and the ~~((patient or the patient's))~~ individual receiving the radiopharmaceutical misadministration (or the individual's responsible relative or guardian ((hereinafter referred to as "the patient")) of the radiopharmaceutical misadministration not later than twenty-four hours after its discovery, unless the referring physician personally informs the licensee either that the physician will inform the ~~((patient))~~ individual or that, based on medical judgment, telling the ~~((patient))~~ individual would be harmful. The licensee is not required to notify the ~~((patient))~~ individual without first consulting the referring physician. If the referring physician or ~~((patient))~~ individual receiving the radiopharmaceutical misadministration cannot

be reached within twenty-four hours, the licensee shall notify the ~~((patient))~~ individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the ~~((patient))~~ individual, including any necessary remedial care as a result of the radiopharmaceutical misadministration, because of any delay in notification.

(3) The licensee shall submit a written report to the department within fifteen days after discovery of the radiopharmaceutical misadministration. The written report must include the licensee's name; the prescribing physician's name; a brief description of the event; why the event occurred; the effect on the ~~((patient))~~ individual who received the radiopharmaceutical misadministration; what improvements are needed to prevent recurrence; actions taken to prevent recurrence; whether the licensee notified the ~~((patient))~~ individual, and if not, why not, and if ~~((the patient was notified))~~ there was notification, what information was provided ~~((to the patient))~~. The report shall not include the ~~((patient's))~~ individual's name or other ~~((identifying))~~ information that could lead to identification of the individual. To meet the requirements of this section, the notification of the individual receiving the radiopharmaceutical misadministration may be made instead to that individual's responsible relative or guardian, when appropriate.

(4) If the ~~((patient))~~ individual was notified, the licensee shall also furnish, within fifteen days after discovery of the radiopharmaceutical misadministration, a written report to the ~~((patient))~~ individual by sending either:

(a) A copy of the report that was submitted to the department; or

(b) A brief description of both the radiopharmaceutical misadministration and the consequences, as they may affect the ~~((patient))~~ individual, and a statement informing the ~~((patient))~~ individual that the report submitted to the department can be obtained from the licensee.

(5) Each licensee shall retain a record of each radiopharmaceutical misadministration for five years. The record shall contain the names of all individuals involved (including the prescribing physician, allied health personnel, the ~~((patient))~~ individual who received the radiopharmaceutical misadministration, and the ~~((patient's))~~ individual's referring physician, if applicable), the ~~((patient's))~~ individual's Social Security number or identification number if one has been assigned, a brief description of the radiopharmaceutical misadministration, why it occurred, the effect on the ~~((patient))~~ individual, ~~((what))~~ improvements ((are)) needed to prevent recurrence, and the actions taken to prevent recurrence.

(6) Aside from the notification requirement, nothing in this section affects any rights or duties of licensees and physicians in relation to each other, ~~((patients, or the patient's))~~ to individuals receiving radiopharmaceutical misadministrations, or to that individual's responsible relatives or guardians.

**AMENDATORY SECTION** (Amending Order 184, filed 7/24/91, effective 8/24/91)

**WAC 246-239-040 Radiopharmaceuticals.** (1) Radioactive material to be administered to humans shall be ~~((the subject of an FDA approved "new drug application" (NDA)~~

~~or an FDA-accepted "notice of claimed investigational exemption for a new drug" (IND), unless otherwise stated in the license))~~ obtained from a manufacturer or preparer licensed pursuant to WAC 246-235-100, 10 CFR 32.72 or equivalent regulation of an agreement state or licensing state; or prepared by an authorized nuclear pharmacist, a physician who is an authorized user for the radioactive material to be administered, or an individual under the supervision of either as permitted by statute.

(2) ~~((Any licensee using radioactive material for clinical procedures other than those specified in the product labeling (package insert) shall comply with the product labeling regarding:~~

(a) ~~Chemical and physical form;~~

(b) ~~Route of administration; and~~

(c) ~~Dosage range.~~

(3) ~~No licensee shall receive, possess, or use radioactive material as a radiopharmaceutical except when it has been:~~

(a) ~~Manufactured in the form to be administered to the patient, and labeled, packaged, and distributed, in accordance with a specific license; or~~

(b) ~~Prepared from reagent kits and/or radionuclide generators approved in accordance with WAC 246-235-080 (3)(b) and 246-235-100(10).~~

(4) ~~The provisions of this part notwithstanding:~~

(a) No radioactive material in gaseous form or for use as an aerosol is permitted except Technetium-99m pentetate used as an aerosol for lung function studies, or as specifically authorized by license condition. Radioactive aerosols must be administered with a closed, shielded system that either is vented to the outside atmosphere through an air exhaust or provides for collection and disposal of the aerosol; and

(b) No generator or reagent kit is authorized for preparation of any gaseous form or aerosol of the radioactive material, except as specifically authorized by license condition.

~~((5))~~ (3) Radioactive material to be administered to humans shall be assayed for activity to determine the dose within ten percent accuracy of the prescribed dose prior to being administered to patients.

(a) In the absence of a certificate from a supplier which specifies the activity of each dose, the licensee shall establish written procedures for the personnel to perform assays to an accuracy of ten percent of the prescribed dose prior to being administered to patients.

(b) The licensee shall maintain for inspection by the department, records of the results of each assay performed to determine the activity of each dose administered to a patient. Records shall be maintained for two years following performance of each assay.

## NEW SECTION

**WAC 246-239-055 Release of individuals containing radiopharmaceuticals.** (1) The licensee may authorize the release from its control of any individual who has been administered radiopharmaceuticals if the total effective dose equivalent to any other individual from exposure to the released individual is not likely to exceed 5 millisieverts (0.5 rem).

(2) The licensee shall provide the released individual with instructions, including written instructions, on actions recommended to maintain doses to other individuals as low as is reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed 1 millisievert (0.1 rem). If the dose to a breast-feeding infant or child could exceed 1 millisievert (0.1 rem) assuming there were no interruption of breast-feeding, the instructions shall also include:

(a) Guidance on the interruption or discontinuation of breast-feeding; and

(b) Information on the consequences of failure to follow the guidance.

(3) The licensee shall maintain a record of the basis for authorizing the release of an individual, for three years after the date of release, if the total effective dose equivalent is calculated by:

(a) Using the retained activity rather than the activity administered;

(b) Using an occupancy factor less than 0.25 at 1 meter;

(c) Using the biological or effective half-life; or

(d) Considering the shielding by tissue.

(4) The licensee shall maintain a record, for three years after the date of release, that instructions were provided to a breast-feeding woman if the radiation dose to the infant or child from continued breast-feeding could result in a total effective dose equivalent exceeding 5 millisieverts (0.5 rem).

**AMENDATORY SECTION** (Amending Order 245, filed 2/21/92, effective 3/23/92)

**WAC 246-240-010 Definitions.** As used in this chapter, the following definitions apply:

(1) "Authorized user" means a physician who is identified as an authorized user on a department, U.S. Nuclear Regulatory Commission or agreement state license that authorizes the medical use of radioactive material.

(2) "Brachytherapy" means a method of radiation therapy in which sealed sources are utilized to deliver a radiation dose at a distance of up to a few centimeters, by surface, intracavitary, or interstitial application.

~~((2))~~ (3) "Medical use" means the intentional internal or external administration of radioactive material or the radiation therefrom to patients or human research subjects under the supervision of an authorized user.

(4) "Prescribed dose" means:

(a) For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

(b) For teletherapy, the total dose and dose per fraction as documented in the written directive; or

(c) For brachytherapy, either the total source strength and exposure time, or the total dose, as documented in the written directive.

~~((3))~~ (5) "Recordable therapy event" means the administration of:

(a) Radiation without a written directive where a written directive is required;

(b) Radiation where a written directive is required without daily recording of each radiation dose in the appropriate record;

(c) A teletherapy radiation dose when the calculated weekly administered dose exceeds the weekly prescribed dose by fifteen percent or more of the weekly prescribed dose; or

(d) A brachytherapy radiation dose when the calculated administered dose differs from the prescribed dose by more than ten percent of the prescribed dose.

(6) "Teletherapy" means therapeutic irradiation in which the source of radiation is at a distance from the body.

~~((4))~~ (7) "Therapy misadministration" means the administration of:

(a) A gamma stereotactic radiosurgery radiation dose:

(i) Involving the wrong (~~(patient)) individual~~ or wrong treatment site; or

(ii) When the calculated total administered dose differs from the total prescribed dose by more than ten percent of the total prescribed dose;

(b) A teletherapy radiation dose:

(i) Involving the wrong (~~(patient)) individual~~, wrong mode of treatment, or wrong treatment site;

(ii) When the treatment consists of three or fewer fractions and the calculated total administered dose differs from the total prescribed dose by more than ten percent of the total prescribed dose;

(iii) When the calculated weekly administered dose ~~((is)) exceeds the weekly prescribed dose by~~ thirty percent ~~((greater than)) or more of~~ the weekly prescribed dose; or

(iv) When the calculated total administered dose differs from the total prescribed dose by more than twenty percent of the total prescribed dose;

(c) A brachytherapy radiation dose:

(i) Involving the wrong (~~(patient)) individual~~, wrong radioisotope, or wrong treatment site (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site);

(ii) Involving a sealed source that is leaking;

(iii) When, for a temporary implant, one or more sealed sources are not removed upon completion of the procedure; or

(iv) When the calculated administered dose to the treatment site differs from the prescribed dose by more than twenty percent of the prescribed dose.

~~((5))~~ (8) "Written directive" means an order in writing for a specific patient or human research subject, dated and signed by an authorized user prior to the administration of radiation, except as specified in (d) of this subsection, containing the following information:

(a) For gamma stereotactic radiosurgery: Target coordinates, collimator size, plug pattern, and total dose;

(b) For teletherapy: The total dose, dose per fraction, treatment site, and overall treatment period;

(c) For high-dose-rate remote after loading brachytherapy: The radioisotope, treatment site, and total dose; or

(d) For all other brachytherapy, (i) prior to implantation: The radioisotope, number of sources, and source strengths; and (ii) after implantation but prior to completion of the procedure: The radioisotope, treatment site, and total source strength and exposure time (or, equivalently, the total dose).

**AMENDATORY SECTION** (Amending WSR 95-01-108, filed 12/21/94, effective 1/21/95)

**WAC 246-240-015 Policy and procedures for therapy administration.** (1) Each licensee shall establish and maintain a written program to provide assurance that radioactive material or radiation from radioactive material will be administered as directed by the authorized user. The program must include written polices and procedures to meet the following specific objectives:

(a) That, prior to administration, a written directive is prepared for:

- (i) Any teletherapy radiation dose;
- (ii) Any gamma stereotactic radiosurgery radiation dose;

or

(iii) Any brachytherapy radiation dose. A written revision to an existing written directive may be made for any therapeutic procedure provided the revision is dated and signed by the authorized user prior to the administration of radioactive material or radiation from radioactive material for that therapeutic use. If a delay would jeopardize the patient's health, and the authorized user is not personally present to administer the dose, an oral directive or oral revision to an existing written directive by the authorized user will be acceptable provided the oral directive or oral revision is documented immediately in the patient's chart or record, and the revised written directive is signed by the authorized user within forty-eight hours of the oral revision. Note: A written directive is not required when an authorized user personally assays and administers a dosage, provided the pertinent facts are documented as otherwise required;

(b) That, prior to each administration, the patient's identity is verified by more than one method as the individual named in the written directive;

(c) That final plans of treatment and related calculations for brachytherapy, teletherapy, and gamma stereotactic radiosurgery are in accordance with the respective written directives;

(d) That each administration is in accordance with the written directive; and

(e) That any unintended deviation from the written directive is identified and evaluated, and appropriate action is taken.

(2) The licensee shall:

(a) Develop procedures for and conduct a review of the therapy administration program including, since the last review, an evaluation of:

(i) A representative sample of patient and human research subject administrations;

(ii) All recordable events; and

(iii) All therapy misadministrations to verify compliance with all aspects of the therapy administration program; these reviews shall be conducted at intervals no greater than twelve months;

(b) Evaluate each of these reviews to determine the effectiveness of the therapy administration program and, if required, make modifications to meet the objectives of subsection (1) of this section; and

(c) Retain records of each review, including the evaluations and findings of the review, in an auditable form for three years.

(3) The licensee shall evaluate and respond, within thirty days after the discovery of the recordable therapy event, to each recordable therapy event by:

(a) Assembling the relevant facts including the cause;

(b) Identifying what, if any, corrective action is required to prevent recurrence; and

(c) Retaining a record, in an auditable form, for three years, of the relevant facts and what corrective action, if any, was taken.

~~((3))~~ (4) The licensee shall retain:

(a) Each written directive (provided, however, that such written directive is not required if the dose is both personally assayed and administered by the authorized user); and

(b) A record of each administered radiation dose where a written directive is required in subsection (1)(a) of this section, in an auditable form for three years after the date of the administration.

~~((4))~~ (5) The licensee may make modifications to the program to increase the program's efficiency provided the program's effectiveness is not decreased.

**AMENDATORY SECTION** (Amending WSR 94-06-017, filed 2/22/94, effective 3/25/94)

**WAC 246-240-020 Interstitial, intracavitary and superficial applications.** (1) **Accountability, storage, and handling.**

(a) Except as otherwise specifically authorized by the department, each licensee shall provide accountability of sealed sources and shall keep a record of the issue and return of all sealed sources to their place of storage.

(b) Each licensee shall conduct a quarterly physical inventory to account for all sources and devices received and possessed. Records of the inventories shall be maintained for inspection by the department and shall include the activities, radionuclide(s), and serial numbers of radioactive sources, location of sources and devices, the date of the inventory, and the initials or name of the person performing the inventory.

(c) Each licensee shall follow the radiation safety and handling instructions approved by the department, the United States Nuclear Regulatory Commission, an agreement state or a licensing state and furnished by the manufacturer on the label attached to the source, device or permanent container thereof, or in the leaflet or brochure which accompanies the source or device, and maintain such instruction in a legible and conveniently available form.

(d) Each licensee shall assure that sealed therapy sources are not opened/breached, or physically modified while in the licensee's possession unless specifically authorized by license condition.

(2) **Testing sealed sources for leakage and contamination.**

(a) All sealed sources containing more than 100 microcuries (3.7 megabecquerels) of radioactive material with a half-life greater than thirty days, except Iridium-192 seeds encased in nylon ribbon, shall be tested for contamination and/or leakage at intervals not to exceed six months or at

such other intervals as are approved by the department, the United States Nuclear Regulatory Commission, an agreement state or a licensing state and described by the manufacturer on the label attached to the source, device, or permanent container thereof, or in the leaflet or brochure which accompanies the source or device. Each source or device shall be so tested prior to its first use unless the supplier furnishes a certificate that the source or device has been so tested within six months prior to the transfer.

(b) Leak tests shall be capable of detecting the presence of 0.005 microcurie (185 becquerels) of radioactive material on the test sample or in the case of radium, the escape of radon at the rate of 0.001 microcurie (37 becquerels) per twenty-four hours. The test sample shall be taken from the source or from the surfaces of the device in which the source is permanently or semipermanently mounted or stored on which one might expect contamination to accumulate. Records of leak test results shall be kept in units of microcuries or becquerels and maintained for inspection by the department.

(c) Any leak test conducted pursuant to (a) of this subsection which reveals the presence of 0.005 microcurie (185 becquerels) or more of removable contamination or in the case of radium, the escape of radon at the rate of 0.001 microcurie (37 becquerels) per twenty-four hours, shall be considered evidence that the sealed source is leaking. The licensee shall immediately withdraw the source from use and cause it to be decontaminated and repaired or to be disposed of in accordance with department regulations. A report shall be filed within five days of the test with the department, describing the equipment involved, the test results, and the corrective action taken.

### (3) Radiation surveys.

(a) The maximum exposure rate radiation level at a distance of one meter from the patient in whom brachytherapy sources have been inserted shall be determined by measurement or calculation. This radiation level shall be entered on the patient's chart and other signs as required under subsection (4) of this section.

(b) The exposure rate radiation levels in the patient's room and the surrounding area shall be determined, recorded, and maintained for inspection by the department.

(c) The licensee shall assure that patients treated with Cobalt-60, Cesium-137, Iridium-192, Radium-226, or any other nonpermanent implants, including High Dose Rate (HDR), Medium Dose Rate (MDR), or Low Dose Rate (LDR) therapy systems used on an in-patient or out-patient basis, remain hospitalized until a source count and a radiation survey of the patient and the patient's room confirm that all implants have been removed and are accounted for immediately after removing the last source.

~~((d) Patients administered any therapeutic radiopharmaceutical shall remain hospitalized until the residual activity is 30 millieuries (1110 megabecquerels) or less, OR the measured dose rate from the unshielded patient is less than 5.0 millirem (50 microsieverts) per hour at a distance of one meter.))~~

### (4) Signs and records.

(a) In addition to the requirements of WAC 246-221-120, the bed, cubicle, or room of the hospital brachytherapy

patient shall be marked with a sign indicating the presence of brachytherapy sources. This sign shall incorporate the radiation symbol and specify the radionuclide, the activity, date, and the individual(s) to contact for radiation safety instructions.

(b) The following information shall be included for the duration of the patient's treatment in the patient's official hospital medical record/chart:

(i) The radionuclide administered, number of sources, activity in millicuries or becquerels and time and date of administration;

(ii) The exposure rate at one meter, the time the determination was made, and by whom;

(iii) The radiation symbol; and

(iv) The precautionary instructions necessary to assure that the exposure of individuals does not exceed that permitted under WAC 246-221-010.

(c) Information required by subsection (4)(b)(i) and (ii) of this section shall be retained for review by the department.

(d) A record of the survey conducted to confirm that all sources have been removed from a patient or human research subject prior to release shall be retained for three years. Each record shall include the date of the survey, the name of the patient or human research subject, the dose rate from the patient or human research subject expressed as millirem per hour and measured at one meter from the patient or human research subject, the survey instrument used, and the initials of the individual who made the survey.

## NEW SECTION

**WAC 246-240-025 Release of individuals containing permanent implants.** (1) The licensee may authorize the release from its control of any individual who has permanent implants containing radioactive material if the total effective dose equivalent to any other individual from exposure to the released individual is not likely to exceed 5 millisieverts (0.5 rem).

(2) The licensee shall provide the released individual with instructions, including written instructions, on actions recommended to maintain doses to other individuals as low as is reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed 1 millisievert (0.1 rem).

(3) The licensee shall maintain a record of the basis for authorizing the release of an individual, for three years after the date of release, if the total effective dose equivalent is calculated by:

(a) Using an occupancy factor less than 0.25 at 1 meter; or

(b) Considering the shielding by tissue.

**AMENDATORY SECTION** (Amending Order 245, filed 2/21/92, effective 3/23/92)

**WAC 246-240-050 Notifications, records, and reports of therapy misadministrations.** (1) The licensee shall notify by telephone the division of radiation protection at (206) 682-5327 no later than the next calendar day after the discovery of a therapy misadministration.



(2) The licensee also shall notify the referring physician and the ~~((patient or the patient's))~~ individual receiving the therapy misadministration (or the individual's responsible relative or guardian ~~((hereinafter referred to as "the patient"))~~) of the therapy misadministration not later than twenty-four hours after its discovery, unless the referring physician personally informs the licensee either that the physician will inform the ~~((patient))~~ individual or that, based on medical judgment, telling the ~~((patient))~~ individual would be harmful. The licensee is not required to notify the ~~((patient))~~ individual without first consulting the referring physician. If the referring physician or ~~((patient))~~ the patient receiving the therapy misadministration cannot be reached within twenty-four hours, the licensee shall notify the ~~((patient))~~ individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the ~~((patient))~~ individual, including any necessary remedial care as a result of the therapy misadministration, because of any delay in notification.

(3) The licensee shall submit a written report to the department within fifteen days after discovery of the therapy misadministration. The written report must include the licensee's name; the prescribing physician's name; a brief description of the therapy misadministration; why it occurred; the effect on the ~~((patient))~~ individual; what improvements are needed to prevent recurrence; actions taken to prevent recurrence; whether the licensee notified the ~~((patient))~~ individual, and if not, why not, and if ~~((the patient was notified))~~ there was notification, what information was provided ~~((to the patient))~~. The report shall not include the ~~((patient's))~~ individual's name or other ~~((identifying))~~ information that could lead to identification of the individual. To meet the requirements of this section, the notification of the individual receiving the therapy misadministration may be made instead to that individual's responsible relative or guardian, when appropriate.

(4) If the ~~((patient))~~ individual was notified, the licensee shall also furnish, within fifteen days after discovery of the therapy misadministration, a written report to the ~~((patient))~~ individual by sending either:

(a) A copy of the report that was submitted to the department; or

(b) A brief description of both the therapy misadministration and the consequences, as they may affect the ~~((patient))~~ individual, and a statement informing the ~~((patient))~~ individual that the report submitted to the department can be obtained from the licensee.

(5) Each licensee shall retain a record of each therapy misadministration for five years. The record must contain the names of all individuals involved (including the prescribing physician, allied health personnel, the ~~((patient))~~ individual who received the therapy misadministration, and ~~((the patient's))~~ that individual's referring physician), the ~~((patient's))~~ individual's Social Security number or identification number if one has been assigned, a brief description of the therapy misadministration, why it occurred, the effect on the ~~((patient))~~ individual, ~~((what))~~ improvements ~~((are))~~ needed to prevent recurrence, and the actions taken to prevent recurrence.

(6) Aside from the notification requirement, nothing in this section affects any rights or duties of licensees and phy-

sicians in relation to each other, ~~((patients, or the patient's))~~ to individual's receiving therapy misadministrations, or to that individual's responsible relatives or guardians.

**AMENDATORY SECTION** (Amending Order 184, filed 7/24/91, effective 8/24/91)

**WAC 246-244-240 Notification of incidents, abandonment, and lost sources.** (1) Notification of incidents and sources lost in other than downhole logging operations shall be made in accordance with appropriate provisions of chapter 246-221 WAC.

(2) The licensee shall immediately notify the state of Washington division of radiation protection by telephone ~~((360/753-3468))~~ (206 682-5327) and subsequently within five days by confirmatory letter if:

(a) Licensed material has been lost in or near a fresh water aquifer; or

(b) A sealed source has been ruptured. This notice must designate the well or other location and describe the magnitude and extent of licensed materials, assess the consequences of the loss or rupture, and explain efforts planned or being taken to mitigate these consequences.

(3) Whenever a sealed source or device containing radioactive material is lodged downhole, the licensee shall:

(a) Monitor the surface for the presence of radioactive contamination with an appropriate radiation survey instrument (not the logging tool itself) during logging tool recovery operations; and

(b) Notify the department immediately by telephone if radioactive contamination is detected at the surface or if the source appears to be damaged.

(4) When it becomes apparent that efforts to recover the radioactive source will not be successful, the licensee shall:

(a) Advise the well operator or owner, as appropriate, of the regulations of the state of Washington regarding abandonment, and an appropriate method of abandonment. The licensee shall ensure that such abandonment procedures are implemented within thirty days after the sealed source has been classified as irretrievable. Such abandonment procedures shall include:

(i) Immobilization and sealing in place of the radioactive source with a cement plug;

(ii) The setting of a whipstock or deflection device; and

(iii) The mounting of a permanent identification plaque at the surface of the well, containing the appropriate information required by subsection (5) of this section;

(b) Immediately notify the department by telephone ~~((360/753-3468))~~ (206 682-5327), giving the circumstances of the loss, and request and receive approval of the proposed abandonment procedures; and

(c) File a written report with the department within thirty days of the abandonment, setting forth the following information:

(i) Date and time of occurrence and a brief description of attempts to recover the source;

(ii) A description of the radioactive source(s) involved, including radionuclide, quantity, make, model and serial number, and chemical and physical form;

(iii) Surface location and identification of well;

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- (iv) Results of efforts to immobilize and seal the source in place;
- (v) Depth of the radioactive source in meters or feet;
- (vi) Depth to the top of cement plug in meters or feet;
- (vii) Depth of the well in meters or feet; and
- (viii) Information contained on the permanent identification plaque.

(5) Whenever a sealed source containing radioactive material is not recovered and is abandoned downhole, the licensee shall provide a permanent plaque at least eighteen centimeters square for posting the well or well bore (see Appendix A). This plaque shall:

(a) Be constructed of long lasting material, such as stainless steel or monel; and

(b) Contain the following information permanently and conspicuously engraved on its face:

(i) The word "CAUTION (or DANGER)";

(ii) The radiation symbol(s) with or without the conventional color requirement;

(iii) The date of abandonment (month/day/year);

(iv) The name of the well operator or well owner;

(v) The well name and well identification number(s) or other designation;

(vi) The sealed source(s) by radionuclide and quantity of activity (if more than one source is involved, information for each source shall be included);

(vii) The source depth and the depth to the top of the plug in meters or feet; and

(viii) An appropriate warning, depending on the specific circumstances of each abandonment.<sup>1</sup>

(6) The department may, at its own discretion, impose such other requirements as it may deem necessary.

<sup>1</sup> An example of a suggested plaque is shown in Appendix A of this section. Appropriate warnings may include:

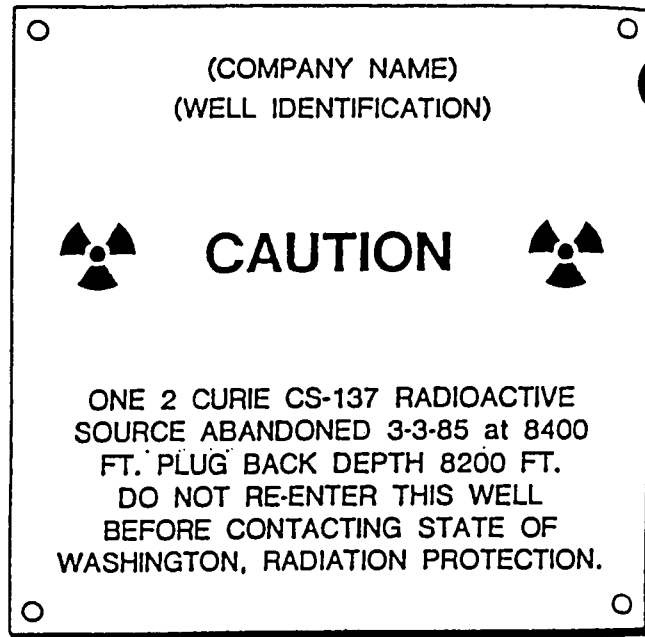
(a) "Do not drill below plug back depth";

(b) "Do not enlarge casing"; and/or

(c) "Do not reenter the hole before contacting the state of Washington division of radiation protection."

APPENDIX A

Example of Plaque for Identifying Wells Containing Sealed Sources Containing Radioactive Material Abandoned Downhole



The size of the plaque should be convenient for use on active or inactive wells, and shall be at least eighteen centimeters square. Letter size of the word "CAUTION" or "DANGER" shall be approximately twice the letter size of the rest of the information, e.g., one-half inch and one-fourth inch letter size, respectively.

AMENDATORY SECTION (Amending WSR 94-07-010, filed 3/4/94, effective 4/4/94)

**WAC 246-247-010 Applicability.** (1) The standards and requirements of this chapter apply state-wide at the following types of facilities that emit radionuclides to the air:

(a) Facilities licensed by the department or by the United States Nuclear Regulatory Commission (NRC);

(b) United States Department of Energy (DOE) facilities;

(c) Non-DOE federal facilities;

(d) Uranium fuel cycle facilities;

(e) Uranium mills that are processing material; and

(f) Any other facility that the department determines emits or has the potential to emit radionuclides to the ambient air.

(2) The standards and requirements of this chapter apply to point sources, nonpoint sources, and fugitive emissions.

(3) The standards and requirements of this chapter apply to stationary and mobile emission units, whether temporary or permanent.

(4) The control technology standards and requirements of this chapter apply to the abatement technology and indica-

tion devices of facilities and emission units subject to this chapter. Control technology requirements apply from entry of radionuclides into the ventilated vapor space to the point of release to the environment.

(5) In accordance with RCW 70.94.161(10), air operating permits issued under chapter 173-401 WAC shall incorporate all applicable requirements of this chapter. Therefore, all facilities listed in subsection (1) of this section that are also subject to the operating permit regulations in chapter 173-401 WAC shall be considered in compliance with the requirements of this chapter if they comply with all the applicable requirements of the air operating permit issued under chapter 173-401 WAC. These applicable requirements shall be contained in the radioactive air emissions license which shall be incorporated as part of the air operating permit. In accordance with RCW 70.94.422(1), the department shall enforce all the requirements contained in the radioactive air emissions license.

(6) Should any of the federal regulations that have been adopted by reference in this chapter be rescinded, the affected facilities shall nonetheless comply with all other applicable requirements of this chapter.

(7) An applicant may obtain a copy of any document referenced in this chapter by contacting the department's division of radiation protection, air emissions and defense wastes section at (360) ((586-5504)) 236-3260. Mail reports, applications, and other written correspondence to the Air Emissions and Defense Wastes Section at Airdustrial Park, Building 5, P.O. Box 47827, Olympia, Washington, 98504-7827.

**WSR 98-09-109**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**

[Filed April 22, 1998, 11:17 a.m.]

**Original Notice.**

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

Title of Rule: Licensing fee increase for acute care hospitals.

Purpose: Increase licensing fees for hospitals as approved by 1998 legislature.

Statutory Authority for Adoption: RCW 70.41.100, 43.20B.020.

Statute Being Implemented: RCW 70.41.100.

Summary: Increases acute care hospital licensing fee from \$47.30 per bed to \$61.50 per bed.

Reasons Supporting Proposal: The 1998 legislature passed a supplemental budget allowing for increase in staff and licensing fees for acute care hospitals.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Byron Plan, P.O. Box 47852, Olympia, WA 98504-7852, (360) 705-6780.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amends licensing fees for acute care hospitals. Purpose is to provide for supplemental budget as approved by the legislature.

Proposal Changes the Following Existing Rules: Increases acute care hospital license fee from \$47.30 per bed to \$61.50 per bed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal is exempt under RCW 34.05.310(4) and therefore does not require a small business economic impact statement. However, the department prepared a fee study which provides documentation of the need for the fee increase.

RCW 34.05.328 does not apply to this rule adoption. Section 201, chapter 403, Laws of 1995, do not apply to rules that set or adjust fees or rates pursuant to legislative standards according to RCW 34.05.328 (5)(b)(vi).

Hearing Location: Former Revenue Building, Meeting Room #16, 1101 Eastside Street, Olympia, WA, on May 27, 1998, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Jennell Prentice by May 12, 1998, TDD (360) 664-0064, or (360) 705-6661.

Submit Written Comments to: Jennell Prentice, Rules Coordinator, Facilities and Services Licensing, P.O. Box 47852, Olympia, WA 98504-7852, Internet JZP0303@hub.wa.doh.gov, FAX (360) 705-6654, by May 25, 1998.

Date of Intended Adoption: June 1, 1998.

April 22, 1998  
 Bruce Miyahara  
 Secretary

**AMENDATORY SECTION** (Amending WSR 95-12-097, filed 6/7/95, effective 7/8/95)

**WAC 246-318-990 Fees.** Hospitals licensed under chapter 70.41 RCW shall:

(1) Submit an annual license fee of (~~forty-seven~~) sixty-one dollars and (~~thirty~~) fifty cents for each bed space within the licensed bed capacity of the hospital to the department;

(2) Include all bed spaces in rooms complying with physical plant and movable equipment requirements of this chapter for twenty-four-hour assigned patient rooms;

(3) Include neonatal intensive care bassinet spaces;

(4) Include bed spaces assigned for less than twenty-four-hour patient use as part of the licensed bed capacity when:

(a) Physical plant requirements of this chapter are met without movable equipment; and

(b) The hospital currently possesses the required movable equipment and certifies this fact to the department;

(5) Exclude all normal infant bassinets;

(6) Limit licensed bed spaces as required under chapter 70.38 RCW;

(7) Submit an application for bed additions to the department for review and approval under chapter 70.38 RCW subsequent to department establishment of the hospital licensed bed capacity; and

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(8) Set up twenty-four-hour assigned patient beds only within the licensed bed capacity approved by the department.

### WSR 98-09-110

#### PROPOSED RULES

#### DEPARTMENT OF HEALTH

[Filed April 22, 1998, 11:20 a.m.]

#### Original Notice.

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

Title of Rule: Frequency of medical exams for use of respiratory protection equipment.

Purpose: This rule amends WAC 246-221-117 which in part sets the frequency at which a physician must determine that an individual is medically fit to use respiratory protection equipment in the nuclear industry.

Statutory Authority for Adoption: RCW 70.98.050.

Statute Being Implemented: RCW 70.98.050.

Summary: The annual requirement for a medical fitness test for users of respiratory protection equipment is being modified to allow the physician to determine the frequency of retesting. This is consistent with the corresponding change in federal requirements for the nuclear industry.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Terry C. Frazee, Tumwater, (360) 236-3221.

Name of Proponent: Division of Radiation Protection, Department of Health, governmental.

Rule is necessary because of federal law, 10 CFR 20.1703 (60 FR 7900).

Explanation of Rule, its Purpose, and Anticipated Effects: This rule updates the requirement for a medical fitness test for individuals who wear respiratory protection equipment in the nuclear industry. The amended rule will allow physicians to determine the frequency of retesting if not done annually. This change can significantly lessen the economic burden on radioactive materials licensees where respirators are used without having an adverse impact on worker health and safety.

Proposal Changes the Following Existing Rules: WAC 246-221-117 (1)(b)(v) is amended to allow a physician, who determines that an individual user is medically fit to use respiratory protection equipment, the latitude to set the frequency of retesting the individual for medical fitness rather than limit the frequency to every twelve months as currently established by this rule.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule adopts a federal regulation without material change as described under RCW 34.05.310(4). RCW 19.85.025 provides that chapter 19.85 RCW does not apply to the adoption of a rule described in RCW 34.05.310(4). In addition, this rule conforms to a federal rule change for which a "regulatory flexibility certification" was prepared stating that the "rule will not have a significant economic impact upon a substantial number of small entities."

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This rule change is for conformance with a United States Nuclear Regulatory Commission regulation as required under our agreement state status with the federal government. No material changes from the federal regulations are proposed.

Hearing Location: Department of Health, Division of Radiation Protection, Airdustrial Center, Building 5, Tumwater, Washington, on May 27, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Terry Frazee by May 26, 1998, TDD (800) 833-6388, or FAX (360) 236-2255.

Submit Written Comments to: Terry Frazee, P.O. Box 47827, Olympia, WA 98504-7827, FAX (360) 236-2255, by May 27, 1998.

Date of Intended Adoption: June 3, 1998.

April 20, 1998  
Bruce Miyahara  
Secretary

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

**WAC 246-221-117 Use of individual respiratory protection equipment.** (1) If the licensee uses respiratory protection equipment to limit intakes pursuant to WAC 246-221-113:

(a) The licensee shall use only respiratory protection equipment that is:

(i) Tested and certified or had certification extended by the National Institute for Occupational Safety and Health and the Mine Safety and Health Administration; or

(ii) Approved by the department on the basis of the licensee's submittal of an application for authorized use of other respiratory protection equipment, including a demonstration by testing, or a demonstration on the basis of reliable test information, that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use.

(b) The licensee shall implement and maintain a respiratory protection program that includes:

(i) Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate exposures; and

(ii) Surveys and bioassays, as appropriate, to evaluate actual intakes; and

(iii) Testing of respirators for operability immediately prior to each use; and

(iv) Written procedures regarding selection, fitting, issuance, maintenance, cleaning, repair, and testing of respirators, including testing for operability immediately prior to each use; supervision and training of personnel; monitoring, including air sampling and bioassays; and recordkeeping; and

(v) Determination by a physician prior to initial fitting of respirators, and ((at least)) either every twelve months thereafter or periodically at a frequency determined by a physician, that the individual user is ((physically able)) medically fit to use the respiratory protection equipment.

(c) The licensee shall issue a written policy statement on respirator usage covering:

(i) The use of process or other engineering controls, instead of respirators; and

(ii) The routine, nonroutine, and emergency use of respirators; and

(iii) The length of periods of respirator use and relief from respirator use.

(d) The licensee shall advise each respirator user that the user may leave the area at any time for relief from respirator use in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other conditions that might require such relief.

(e) The licensee shall use equipment within the equipment manufacturer's expressed limitations for type and mode of use and shall provide proper visual, communication, and other special capabilities, such as adequate skin protection, when needed.

(2) When estimating exposure of individuals to airborne radioactive materials, the licensee may make allowance for respiratory protection equipment used to limit intakes pursuant to WAC 246-221-113, provided that the following conditions, in addition to those in subsection (1) of this section, are satisfied:

(a) The licensee selects respiratory protection equipment that provides a protection factor, specified in WAC 246-221-285, greater than the multiple by which peak concentrations of airborne radioactive materials in the working area are expected to exceed the values specified in WAC 246-221-290, Table I, Column 3. However, if the selection of respiratory protection equipment with a protection factor greater than the peak concentration is inconsistent with the goal specified in WAC 246-221-113 of keeping the total effective dose equivalent ALARA, the licensee may select respiratory protection equipment with a lower protection factor provided that such a selection would result in a total effective dose equivalent that is ALARA. The concentration of radioactive material in the air that is inhaled when respirators are worn may be initially estimated by dividing the average concentration in air, during each period of uninterrupted use, by the protection factor. If the exposure is later found to be greater than initially estimated, the corrected value shall be used; if the exposure is later found to be less than initially estimated, the corrected value may be used.

(b) The licensee shall obtain authorization from the department before assigning respiratory protection factors in excess of those specified in WAC 246-221-285. The department may authorize a licensee to use higher protection factors on receipt of an application that:

(i) Describes the situation for which a need exists for higher protection factors, and

(ii) Demonstrates that the respiratory protection equipment provides these higher protection factors under the proposed conditions of use.

(3) In an emergency, the licensee shall use as emergency equipment only respiratory protection equipment that has been specifically certified or had certification extended for emergency use by the National Institute for Occupational

Safety and Health and the Mine Safety and Health Administration.

(4) Unless already authorized by license condition, the licensee shall notify the department in writing at least thirty days before the date that respiratory protection equipment is first used pursuant to either subsection (1) or (2) of this section.

**WSR 98-09-111**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**

[Filed April 22, 1998, 11:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-20-154.

Title of Rule: Nonprofit hospital acquisitions.

Purpose: To provide potential participants in the Department of Health reviews of nonprofit hospital conversions with procedural and clarifying language beyond what is provided in statute, thereby making participation more efficient and effective.

Statutory Authority for Adoption: Chapter 70.45 RCW and RCW 70.44.007.

Statute Being Implemented: Chapter 70.45 RCW and RCW 70.44.007.

Summary: Proposed rule states procedures for participating in the Department of Health review of acquisitions of nonprofit hospitals, and clarifies statutory language.

Reasons Supporting Proposal: Potential participants, the department, and the Attorney General's Office will be able to work more efficiently in the review process by having clarifying language and procedures in place. Actions by the Department of Health will be legally defensible.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Stephen A. Boruchowitz, 1112 Quince Street S.E., (360) 753-0719.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Establishes procedure by which acquisition of nonprofit hospitals or public health district hospitals are reviewed and approved or disapproved by the department. Documents required to be submitted prior to a determination that an application is complete is provided in this rule, enabling applicants to be better prepared at the start of the review process.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not impact small businesses.

RCW 34.05.328 applies to this rule adoption. The rule requires that certain documents be submitted and certain timelines be followed for applicant to gain approval for their transaction that acquires all or part of a nonprofit hospital, under criteria established in the statute. Failure to submit

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documents or to meet timelines could result in failure to obtain department approval of a transaction.

Hearing Location: Labor and Industries Building, Tumwater, on June 2, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Lance Martin by May 20, 1998, (360) 664-0398.

Submit Written Comments to: Stephen A. Boruchowitz, FAX (360) 664-0398, by June 2, 1998.

Date of Intended Adoption: June 2, 1998.

April 22, 1998

Bruce Miyahara

Secretary

## Chapter 246-312 WAC

### ACQUISITION OF NONPROFIT HOSPITALS((— REVIEW))

#### PART I - GENERAL PROVISIONS

#### NEW SECTION

**WAC 246-312-020 Definitions.** "Acquisition of a nonprofit hospital" means an acquisition by a person of an interest in a nonprofit hospital, whether by a purchase, merger, lease, gift, joint venture, or otherwise, that results in a change of ownership or control of twenty percent or more of the assets of the hospital, or that results in the acquiring person holding or controlling fifty percent or more of the assets of the hospital.

This type of acquisition does not include a transaction where the acquiring person:

- Is a nonprofit corporation having a substantially similar charitable health care purpose as the nonprofit corporation from whom the hospital is being acquired, or is a government entity;
- Is exempt from federal income tax under section 501 (c)(3) of the Internal Revenue Code or as a government entity; and
- Will maintain representation from the affected community on the local board of the hospital.

"Acquisition of a hospital owned by a public hospital district" means an acquisition by a person of any interest in that hospital, whether by a purchase, merger, lease, or otherwise, that results in a change of ownership or control of twenty percent or more of the assets of a hospital currently licensed and operating under RCW 70.41.090.

Acquisition of a public hospital district hospital does not include a transaction where the other party or parties are:

- Nonprofit corporations having a substantially similar charitable health care purpose;
- Organizations exempt from federal income tax under section 501 (c)(3) of the Internal Revenue Code; or
- Governmental entities.

This type of acquisition also does not include a transaction where the other party:

- Is an organization that is a limited liability corporation, a partnership, or any other legal entity and the members, partners, or otherwise designated controlling parties of the organization are all nonprofit corporations having a charitable health care purpose;
- Are organizations exempt from federal income tax under section 501 (c)(3) of the Internal Revenue Code; or
- Are governmental entities.

"Agreement" means a contract, arrangement, or understanding, whether formal or informal, oral or written.

"Applicant" means the acquiring party.

"Attorney general" means the Washington state attorney general.

"Department" means the Washington state department of health.

"Document" means all computer files and any written, recorded, or graphic material of every kind, that is in a person's possession, custody, or control, regardless of the form of the media in which it is preserved or by whom it was prepared. It includes electronic correspondence and drafts of documents, copies of documents that are not identical duplicates of the originals, and copies of documents the originals of which are not in one's possession, custody or control.

"Hospital" means any entity that is: Defined as a hospital in RCW 70.41.020 and is required to obtain a license under RCW 70.41.090; or a psychiatric hospital required to obtain a license under chapter 71.12 RCW.

"Identify" means to provide a statement of: In the case of a person other than a natural person, the names, address (including ZIP code) of the principal place of business, telephone number, and name of chief executive officer; in the case of a natural person, his or her name, business address (including ZIP code) and business telephone number, employer and title or position; in the case of a document, the title of the document, the author, the title or position of the addressee, the type of document, the date it was prepared, the number of pages it comprises, and, if applicable, its production number; in the case of a communication, the date of the communication, the type of communication (telephone conversation, number etc.), the place where the communication took place, the identity of the person who made the communication, the identity of each person who received the communication and each person present when it was made, and the subject matter discussed.

"Nonprofit hospital" means a hospital owned by a nonprofit corporation organized under Title 24 RCW.

"Person" means an individual, a trust or estate, a partnership, a corporation including associations, limited liability companies, joint stock companies, and insurance companies.

"Plans" means tentative and preliminary proposals, recommendations, or considerations, whether or not finalized or authorized, as well as those that have been adopted.

"Relating to" means in whole or in part, constituting, containing, concerning, embodying, reflecting, describing, analyzing, identifying, stating, referring or dealing with, or in any way pertaining to.

**PART II - APPLICATION REQUIREMENTS****NEW SECTION****WAC 246-312-030 Application information.** (1)

Acquiring persons may obtain an application from the department.

(2) An application is determined to be complete when the acquiring person submits a completed application, the documents required in WAC 246-312-040 and required fee(s).

(3) The department may subpoena additional information or witnesses, require and administer oaths, require sworn statements, take depositions, and use related discovery procedures at any time prior to making a decision on the application.

**NEW SECTION****WAC 246-312-035 Amendments to the application.**

The applicant may submit amendments to its application at any time. Timelines will begin again from the application stage of the review process. A processing and review fee is required for each amendment.

**NEW SECTION**

**WAC 246-312-040 Documents required.** (1) The acquiring person shall submit as part of the application for approval three copies of the required documents to the Department of Health, Office of Health Systems Development, P.O. Box 47851, Olympia, Washington 98504-7851 and one copy to the Attorney General's Office, Antitrust Section, 900 4th Avenue, Suite 2000, Seattle, Washington 98164-1012. The official date of receipt shall be the date the application is received at the department of health.

(2) Each document submitted shall identify which request the document is responsive to, using the list below. If the requested document does not exist the acquiring party shall note "does not exist" on a page for that document.

(3) The acquiring party shall submit, or, as appropriate, obtain from the nonprofit hospital and then submit:

(a) The articles of incorporation of the nonprofit hospital, including all amendments thereto from inception to the present.

(b) The bylaws of the nonprofit hospital, including all amendments thereto from inception to the present.

(c) All documents reflecting the terms and conditions of any restricted gifts or bequests to the nonprofit hospital in excess of ten thousand dollars.

(d) A list identifying all trustees, officers and directors of the nonprofit hospital who have served at any time during the seven years prior to the application.

(e) A list identifying each and every officer, trustee or director of the nonprofit hospital (or any immediate family member of such persons) or any affiliate of the nonprofit who has any personal financial interest (other than salary and directors/trustees' fees) in any company, firm, partnership, or other business entity that is currently doing business, or has previously done business, with the nonprofit hospital or any

affiliate of the nonprofit hospital or the acquiring person or any affiliate of the acquiring person.

(f) A statement summarizing the procedure which the nonprofit hospital's board of directors used to evaluate the proposed acquisition.

(g) All documents reflecting a decision by the board of directors of the nonprofit hospital to delegate to any committee, or group smaller than the entire board, the responsibility for reviewing or considering any potential change of ownership or control of the nonprofit's assets.

(h) All documents relating to discussions, deliberations or consideration by the nonprofit hospital's board of directors or any committee or individual members thereof of any possible change of ownership or control of the hospital's assets including the proposed acquisition and specific alternatives to the proposed acquisition.

(i) An affidavit from each member of the board of directors of the nonprofit hospital which contains a statement that the individual has no conflict of interest in the proposed acquisition or otherwise shall disclose any and all actual or potential individual conflicts of interest.

(j) Copies of the two most recent "community needs assessment" or similar evaluations or assessments prepared by or for the nonprofit hospital. Identify all individuals or entities which assisted or contributed to any such evaluations or assessments.

(k) All documents relating to communications between the nonprofit hospital and any consultants retained to assist in the process of considering or deciding whether to enter into the proposed acquisition including any valuation of the assets involved in the proposed acquisition, retention letters or contracts, and any and all materials relied upon to support any conclusions as to valuation.

(l) All documents relating to any relationship between the nonprofit hospital and valuation consultant.

(m) The financial and economic analysis and report from an independent consultant relating to the proposed acquisition and the supporting documents which form the basis for this report, and any other documentation reflecting valuation determinations of any of the nonprofit hospital's assets that are subject to the proposed acquisition.

(n) Copies of all requests for proposal sent to any potential acquiring person and all responses received thereto by the nonprofit hospital.

(o) All documents relating to the reasons why any potential acquiring person was excluded by the nonprofit hospital from further consideration as a potential acquiring person of the assets involved in the proposed acquisition.

(p) All documents reflecting the deliberative process used by the nonprofit hospital in selecting the acquiring person.

(q) Copies of each proposal received by the nonprofit hospital and documents which reflect any analysis thereof. Identify all analysts involved.

(r) All documents relating to the nonprofit hospital's board of directors' evaluation of the option of continuing as a nonprofit entity or pursuing the proposed acquisition or similar transaction with another nonprofit entity.

(s) All documents relating to the nonprofit hospital's plan for use of any proceeds after close of the proposed acquisition

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together with a statement explaining how the proposed plan complies with all applicable charitable trusts that govern use of the nonprofit hospital's assets. The plan must include any proposed amendments to the nonprofit hospital's articles of incorporation and bylaws or any articles of incorporation and bylaws of any entity that will control any of the proceeds from the proposed transfer. Attach any Internal Revenue Service opinions related to the above.

(t) A statement from the nonprofit hospital's board of directors which contains all the reasons for the board's conclusion that the proposed acquisition is necessary or desirable and is appropriate under the circumstances, and which contains the board's conclusions regarding the effects which the proposed acquisition will likely have on delivery of health related services to the community served by each facility involved in the proposed acquisition, and the basis for this opinion. The statement shall also describe all dissenting viewpoints presented.

(u) Copies of the prior two annual audited financial statements and the most current unaudited financial statement for the nonprofit hospital.

(v) A detailed statement of any actual or contingent liabilities retained by the nonprofit hospital posttransaction.

(w) All requests for opinions to the Internal Revenue Service for rulings related to the proposed acquisition and any Internal Revenue Service responses thereto.

(x) A pro forma balance sheet for the surviving or successor nonprofit entity posttransaction.

(y) A statement describing how the survivor or the successor nonprofit entity plans to deal with the right of first refusal to repurchase the assets involved in this transaction, along with a copy of any proposed contract, agreement or understanding regarding the same.

(z) A detailed statement describing how representatives of the community will be involved in the governance of the successor nonprofit entity.

(aa) A statement containing any other information the nonprofit hospital believes the attorney general should consider in deciding whether the proposed acquisition is in the public interest.

(bb) All proposed written agreements or contracts between the nonprofit hospital and the acquiring person relating to the proposed acquisition.

(cc) All documents relating to any personal financial benefit that the proposed acquisition may confer on any officer, director, trustee, employee, doctor, medical group, consultant, or any other entity affiliated with the nonprofit hospital or any immediate family member of any such person.

(dd) All documents relating to any relationship between the acquiring person and valuation consultant.

(ee) Copies of any proposed contract, agreement or understanding relating to the proposed acquisition between the acquiring person and any officer, director, trustee, consultant, or committee member of the nonprofit hospital, or consultants thereto, or any other party to the acquisition.

(ff) A detailed statement and all documents relating to the parties' plans to ensure the community's continued access to affordable health care posttransaction and plans regarding any anticipated reduction or elimination of any health ser-

vices posttransaction and the availability of alternative services should such elimination or reduction occur.

(gg) A detailed statement and all documents relating to the parties' plans for assuring the continuance of existing hospital privileges posttransaction.

(hh) A detailed statement and all documents relating to the parties' plans for ensuring the maintenance of appropriate health science research and health care provider education posttransaction.

(ii) A detailed statement and all documents relating to the parties' plans for ensuring safeguards to avoid conflict of interest in posttransaction patient referral.

(jj) A detailed statement and all documents relating to the parties' commitment and plans to provide health care to the disadvantaged, the uninsured, and the underinsured and how benefits to promote improved health care in the affected community will be provided posttransaction.

(4) The attorney general and the department of health reserve the right to request additional information and documents as deemed reasonably necessary to determine compliance with chapter 70.45 RCW, the Nonprofit Hospital Sales Act.

### PART III - REVIEW PROCESS

#### NEW SECTION

**WAC 246-312-050 Criteria the department will use for review.** (1) Chapter 70.45 RCW states that the department may not approve an application unless, at a minimum, it determines that:

(a) The acquisition is permitted under chapter 24.03 RCW, the Washington Nonprofit Corporation Act, and other laws governing nonprofit entities, trusts, or charities;

(b) The nonprofit corporation that owns the hospital being acquired has exercised due diligence in authorizing the acquisition, selecting the acquiring person, and negotiating the terms and conditions of the acquisition;

(c) The procedures used by the nonprofit corporation's board of trustees and officers in making its decision fulfilled their fiduciary duties, that the board and officers were sufficiently informed about the proposed acquisition and possible alternatives, and that they used appropriate expert assistance;

(d) There is no conflict of interest related to the acquisition, including, but not limited to, board members and executives of, and experts retained by, the nonprofit corporation, acquiring person, or other parties to the acquisition;

(e) The nonprofit corporation will receive fair market value for its assets. The attorney general or the department may employ reasonably necessary expert assistance in making this determination. The acquiring person is responsible for any cost of this expert assistance, in addition to the fees charged under WAC 246-312-990;

(f) If the acquisition is financed in part by the nonprofit corporation, that charitable funds will not be placed at unreasonable risk;

(g) Any management contract under the acquisition is for fair market value;

(h) The proceeds from the acquisition will be controlled as charitable funds independently of the acquiring person or



parties to the acquisition, and will be used for charitable health purposes consistent with the nonprofit corporation's original purpose. Charitable health purposes include providing health care to the disadvantaged, the uninsured, and the underinsured, and providing benefits to promote improved health in the affected community;

(i) The charitable entity established to hold the proceeds of the acquisition will be broadly based in, and representative of, the community where the hospital to be acquired is located, taking into consideration the structure and governance of such entity; and

(j) If the hospital is subsequently sold to, acquired by, or merged with another entity that a right of first refusal to repurchase the assets by a successor nonprofit corporation or foundation has been retained.

(2) Based on chapter 70.45 RCW, the department shall not approve an application unless, at a minimum, it determines that:

(a) If the acquisition results in a reduction or elimination of particular health services, that sufficient safeguards are included to assure the affected community has continued access to affordable care, and that alternative sources of care are available in the community;

(b) Hospital privileges will not be revoked;

(c) Sufficient safeguards are included to maintain appropriate capacity for health science research and health care provider education;

(d) The parties to the acquisition are committed to providing health care to the disadvantaged, the uninsured, and the underinsured and to providing benefits to promote improved health in the affected community; and

(e) Sufficient safeguards are included to avoid conflict of interest in patient referral.

(3) The department may only approve an acquisition if it also determines that the acquisition will not detrimentally affect the continued existence of accessible, affordable health care that is responsive to the needs of the community where the hospital being acquired is located.

#### NEW SECTION

**WAC 246-312-060 Timelines for review.** (1) For good cause, the department of health or the attorney general may request a one-time, thirty-day extension to each timeline.

(2) The department, in consultation with the attorney general, will determine if an application is complete within fifteen working days of the receipt of the application package, documents and required fee(s). If a determination is made that the application is incomplete, the applicant will be notified of the reasons the application is incomplete, with reference to the particular deficiencies.

(3) The department will publish a notice of the application in the newspaper(s) in the county or counties where the hospital is located within five working days of receiving a completed application. The department will notify any person who has requested to receive such notices. The notice shall contain:

(a) Information about the parties to the acquisition;

(b) Where and when to send comments to the department; and

(c) Other information required for adequate public notice of the transaction and the department's review.

(4) Within forty-five days of the first public hearing, the attorney general will provide a written opinion to the department as to whether the acquisition meets the requirements for approval as required by chapter 70.45 RCW.

(5) Within thirty days of receiving the written opinion from the attorney general, the department will:

(a) Approve the acquisition, with or without any specific modification or conditions; or

(b) Disapprove the acquisition.

#### NEW SECTION

**WAC 246-312-070 Public hearing.** (1) The department will hold at least one public hearing in the county where the hospital being acquired is located. Any person may provide written or oral testimony. The department reserves the right to limit the time each presenter may have to make an oral statement.

(2) The department may subpoena witnesses or information, administer oaths, take depositions, and use related discovery procedures.

### **PART IV - ACQUISITION APPROVAL OR DISAPPROVAL**

#### NEW SECTION

**WAC 246-312-080 Grounds for approval, disapproval or modification of an acquisition.** (1) The department's decision must be based on the requirements of chapter 70.45 RCW. Any condition or modification must have a direct and rational relationship to the application under review.

(2) The written opinion of the attorney general may not constitute a final decision for purposes of review.

(3) The department will only approve an application if the parties to the acquisition have taken the proper steps to safeguard the value of charitable assets and to ensure that any proceeds from the acquisition are used for appropriate charitable health purposes.

#### NEW SECTION

**WAC 246-312-090 Appeals.** The acquiring person or nonprofit hospital may appeal a decision made by the department of health under the Administrative Procedure Act (chapter 34.05 RCW).

### **PART V - COMPLIANCE WITH DEPARTMENT'S DECISION**

#### NEW SECTION

**WAC 246-312-100 Compliance with the terms of the acquisition and the department's decision.** (1) At the time of the final decision, the department will notify the parties to the acquisition whether the nonprofit hospital, the acquiring party, or both, must submit periodic reports detailing how

commitments made are being adhered to. The frequency of the reports will also be determined at that time, and will not be more frequent than semiannually but no less frequent than every three years.

(2) Any person, whether a party of the initial acquisition or not, may submit information concerning whether the acquiring person is fulfilling the terms of the acquisition and the department's approval or conditions. If the department determines there is reasonable cause to believe that the information indicates failure to comply, a public hearing will be held. The department must give at least ten days' written notice to the affected parties, including the local community affected.

(3) The cost of the public hearing and any on-site reviews related to determining the validity of the allegations will be borne by the acquiring parties.

(4) If the department finds that the parties to the acquisition have failed to adhere to their commitments or the conditions of the department's approval, the department may:

(a) Revoke or suspend the hospital license pursuant to RCW 70.41.130;

(b) Refer the matter to the attorney general for appropriate action; or

(c) Both.

(5) The attorney general may seek a court order compelling the acquiring person to fulfill its commitments under chapter 70.45 RCW.

(6) The attorney general has the authority to ensure compliance with commitments that inure to the public interest. No provision of chapter 70.45 RCW, derogates from the common law or statutory authority of the attorney general.

#### NEW SECTION

**WAC 246-312-110 Updates or amendments to the agreement or department's conditions.** (1) Recognizing that conditions and community needs may change over time, the parties to the acquisition may jointly request an amendment to their original terms of their commitments to meet chapter 70.45 RCW, or to the department's conditions.

(2) Requests to amend the original commitments or the department's conditions will require the submission of a fee determined by the department.

(3) The department shall use the criteria provided in chapter 70.45 RCW, to approve or disapprove the amendment. The department may request written comments from the attorney general before approving or disapproving the amendment.

#### NEW SECTION

**WAC 246-312-120 Public health care service district (also known as public hospital district).** (1) Prior to approving the acquisition of a public health care service district hospital, the district board of commissioners must obtain a written opinion from a qualified independent expert or the department of health as to whether or not the acquisition meets the review criteria in chapter 70.45 RCW.

(2) The department will charge the district for the review costs.

(3) The department will deliver its opinion within ninety days of the district's request.

**WSR 98-09-112  
PROPOSED RULES  
DEPARTMENT OF HEALTH**

[Filed April 22, 1998, 11:22 a.m.]

Original Notice.

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

Title of Rule: Home health, hospice and home care licensing fees, WAC 246-327-990, 246-331-990, and 246-336-990.

Purpose: Increase licensing fees for home health, hospice and home care agencies as approved by the 1998 legislature.

Statutory Authority for Adoption: RCW 70.127.090, 43.70.110, and 43.70.250.

Statute Being Implemented: RCW 70.127.090.

Reasons Supporting Proposal: The department requested funding and FTE as part of its supplemental budget request to the legislature. The legislature approved increased funding at the local level (fees).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Byron Plan, Program Manager, 2725 Harrison Avenue N.W., Olympia, 98502, (360) 705-6780.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amends home health, hospice and home care licensing fees. The increase will provide additional funds as approved in the 1998 supplemental budget approved by the legislature.

Proposal Changes the Following Existing Rules: Increases licensing fees for home health, hospice and home care agencies. Fee increase schedule is shown below.

Home Health Fees - WAC 246-327-990  
Proposed for 1998-99

FTE'S		Home Health Relicense		Home Health Initial	
		Current Fees Relicense 24 Months	Proposed Fees Relicensure 24 Months	Current Fees Initial 12 Months	Proposed Fees Initial 12 Months
<15	Base	\$ 412	\$ 502.60	\$ 206	\$ 251.30
	FTE Fee	\$ <u>+859</u>	\$ <u>+1,048.00</u>	\$ <u>+429</u>	\$ <u>+523.40</u>
	Total	\$ 1,271	\$ 1,550.60	\$ 635	\$ 774.70
16-50	Base	\$ 412	\$ 502.60	\$ 206	\$ 251.30
	FTE Fee	\$ <u>+1,034</u>	\$ <u>+1,261.50</u>	\$ <u>+516</u>	\$ <u>+629.50</u>
	Total	\$ 1,446	\$ 1,764.10	\$ 722	\$ 880.80
51+	Base	\$ 412	\$ 502.60	\$ 206	\$ 251.30
	FTE Fee	\$ <u>+1,441</u>	\$ <u>+1,721.40</u>	\$ <u>+705</u>	\$ <u>+860.10</u>
	Total	\$ 1,823	\$ 2,224.00	\$ 911	\$ 1,111.40

Hospice Fees - WAC 246-331-090  
Proposed for 1998-99

FTE'S		Hospice		Hospice	
		Current Fees Relicense - 24 Months	Proposed Fees Relicensure - 24 Months	Current Fees Initial - 12 Months	Proposed Fees Initial - 12 Months
<15	Base	\$ 412	\$ 502.60	\$ 206	\$ 251.30
	FTE Fee	\$ <u>+218</u>	\$ <u>+266.00</u>	\$ <u>+109</u>	\$ <u>+133.00</u>
	Total	\$ 630	\$ 768.60	\$ 315	\$ 384.30
16-50	Base	\$ 412	\$ 502.60	\$ 206	\$ 251.30
	FTE Fee	\$ <u>+525</u>	\$ <u>+640.50</u>	\$ <u>+262</u>	\$ <u>+319.60</u>
	Total	\$ 937	\$ 1,143.10	\$ 468	\$ 570.90
51+	Base	\$ 412	\$ 502.60	\$ 206	\$ 251.30
	FTE Fee	\$ <u>+1,089</u>	\$ <u>+1,328.60</u>	\$ <u>+543</u>	\$ <u>+662.40</u>
	Total	\$ 1,501	\$ 1,831.20	\$ 749	\$ 913.70

Home Care Fees - WAC 246-336-990  
Proposal for 1998-99

FTE'S		Home Care		Home Care	
		Current Fees Relicense 24 Months	Proposed Fees Relicensure 24 Months	Current Fees Initial 12 Months	Proposed Fees Initial 12 Months
<15	Base	\$ 274	\$ 334.30	\$ 206	\$ 251.30
	FTE Fee	\$ <u>+145</u>	\$ <u>+176.80</u>	\$ <u>+109</u>	\$ <u>\$133.00</u>
	Total	\$ 419	\$ 511.10	\$ 315	\$ 384.30
16-50	Base	\$ 274	\$ 334.30	\$ 206	\$ 251.30
	FTE Fee	\$ <u>+175</u>	\$ <u>+213.40</u>	\$ <u>+132</u>	\$ <u>+161.00</u>
	Total	\$ 449	\$ 547.70	\$ 338	\$ 412.30
51+	Base	\$ 274	\$ 334.30	\$ 206	\$ 251.30
	FTE Fee	\$ <u>+251</u>	\$ <u>+306.20</u>	\$ <u>+192</u>	\$ <u>+234.20</u>
	Total	\$ 525	\$ 640.50	\$ 398	\$ 485.50

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

department prepared a fee study to provide additional information on the necessity of the fee increase.

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

PROPOSED

1995, do not apply to rules that set or adjust fees or rates pursuant to legislative standards according to RCW 34.05.328 (5)(b)(vi).

Hearing Location: Former Revenue Building, Meeting Room #16, 1101 Eastside Street, Olympia, WA, on May 27, 1998, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Jennell Prentice by May 12, 1998, TDD (360) 664-0064, or (360) 705-6661.

Submit Written Comments to: Jennell Prentice, Rules Coordinator, Facilities and Services Licensing, P.O. Box 47852, Olympia, WA 98504-7852, Internet JZP0303@hub.wa.doh.gov, FAX (360) 705-6654, by May 25, 1998.

Date of Intended Adoption: June 1, 1998.

April 22, 1998  
Bruce Miyahara  
Secretary

**AMENDATORY SECTION** (Amending WSR 97-15-096, filed 7/21/97, effective 8/21/97)

**WAC 246-327-990 Fees.** (1) A licensee or applicant shall submit to the department:

(a) A biennial renewal fee based on the number of full-time equivalents (FTEs), which is a measurement based on a forty-hour week and is applicable to paid agency personnel or contractors, as follows:

(i) A base fee of ~~((four hundred twelve))~~ five hundred two dollars and sixty cents; and

(ii) For agencies with:

(A) Fifteen or less FTEs, ~~((eight hundred fifty-nine))~~ one thousand forty-eight dollars;

(B) Sixteen through fifty FTEs, one thousand ~~((thirty-four))~~ two hundred sixty-one dollars and fifty cents; or

(C) Fifty-one or more FTEs, one thousand ~~((four hundred eleven))~~ seven hundred twenty-one dollars and forty cents;

(b) An initial twelve-month license fee for new firms, businesses not currently licensed to provide home health care in Washington state, or currently licensed businesses which have had statement of charges filed against them as follows:

(i) A base fee of two hundred ~~((six))~~ fifty-one dollars and thirty cents; and

(ii) For agencies with:

(A) Fifteen or less FTEs, ~~((four hundred twenty-nine))~~ five hundred twenty-three dollars and forty cents;

(B) Sixteen through fifty FTEs, ~~((five hundred sixteen))~~ six hundred twenty-nine dollars and fifty cents;

(C) Fifty-one or more FTEs, ~~((seven hundred five))~~ eight hundred sixty dollars and ten cents; and

(c) A transfer of ownership fee of ~~((fifty))~~ sixty dollars. A transferred license will be valid for the remainder of the current license period.

(2) An applicant or licensee shall pay one-half the base fee in addition to the full fee for FTEs for each additional hospice and/or home care license.

(3) The department may charge and collect from a licensee a fee of two hundred ~~((six))~~ fifty dollars for:

(a) A second on-site visit resulting from failure of the licensee or applicant to adequately respond to a statement of deficiencies;

(b) A complete on-site survey resulting from a substantiated complaint; or

(c) A follow-up compliance survey.

(4) A licensee with deemed status shall pay fees according to this section.

(5) A licensee shall submit an additional late fee in the amount of ten dollars per day, not to exceed cost of the base fee, from the renewal date until the date of mailing the fee, as evidenced by the postmark.

**AMENDATORY SECTION** (Amending WSR 97-15-096, filed 7/21/97, effective 8/21/97)

**WAC 246-331-990 Fees.** (1) A licensee or applicant shall submit to the department:

(a) A biennial renewal fee based on the number of full-time equivalents (FTEs), which is a measurement based on a forty-hour week and is applicable to paid agency personnel or contractors, as follows:

(i) A base fee of ~~((four hundred twelve))~~ five hundred two dollars and sixty cents; and

(ii) For agencies with:

(A) Fifteen or less FTEs, two hundred ~~((eighteen))~~ sixty-six dollars;

(B) Sixteen through fifty FTEs, ~~((five hundred twenty-five))~~ six hundred forty dollars and fifty cents; or

(C) Fifty-one or more FTEs, one thousand ~~((eighty-nine))~~ three hundred twenty-eight dollars and sixty cents;

(b) An initial twelve-month license fee for new firms, businesses not currently licensed to provide hospice care in Washington state, or currently licensed businesses which have had statement of charges filed against them as follows:

(i) A base fee of two hundred ~~((six))~~ fifty-one dollars and thirty cents; and

(ii) For agencies with:

(A) Fifteen or less FTEs, one hundred ~~((nine))~~ thirty-three dollars;

(B) Sixteen through fifty FTEs, ~~((two hundred sixty-two))~~ three hundred nineteen dollars and sixty cents;

(C) Fifty-one or more FTEs, ~~((five hundred forty-three))~~ six hundred sixty-two dollars and forty cents; and

(c) A transfer of ownership fee of ~~((fifty))~~ sixty dollars. A transferred license will be valid for the remainder of the current license period.

(2) An applicant or licensee shall pay one-half the base fee in addition to the full fee for FTEs for each additional home health and/or home care license.

(3) The department may charge and collect from a licensee a fee of two hundred ~~((six))~~ fifty dollars for:

(a) A second on-site visit resulting from failure of the licensee or applicant to adequately respond to a statement of deficiencies;

(b) A complete on-site survey resulting from a substantiated complaint; or

(c) A follow-up compliance survey.

(4) A licensee with deemed status shall pay fees according to this section.

(5) A licensee shall submit an additional late fee in the amount of ten dollars per day, not to exceed the cost of the base fee, from the renewal date until the date of mailing the fee, as evidenced by the postmark.

**AMENDATORY SECTION** (Amending WSR 97-15-096, filed 7/21/97, effective 8/21/97)

**WAC 246-336-990 Fees.** (1) A licensee or applicant shall submit to the department:

(a) A biennial renewal fee based on the number of full-time equivalents (FTEs), which is a measurement based on a forty-hour week and is applicable to paid agency personnel or contractors, as follows:

(i) A base fee of ~~((two hundred seventy four))~~ three hundred thirty-four dollars and thirty cents; and

(ii) For agencies with:

(A) Fifteen or less FTEs, one hundred ~~((forty five))~~ seventy-six dollars and eighty cents;

(B) Sixteen through fifty FTEs, ~~((one hundred seventy five))~~ two hundred thirteen dollars and forty cents; or

(C) Fifty-one or more FTEs, ~~((two hundred fifty one))~~ three hundred six dollars and twenty cents;

(b) An initial twelve-month license fee for new firms, businesses not currently licensed to provide home care in Washington state, or currently licensed businesses which have had statement of charges filed against them as follows:

(i) A base fee of two hundred ~~((six))~~ fifty-one dollars and thirty cents; and

(ii) For agencies with:

(A) Fifteen or less FTEs, one hundred ~~((nine))~~ thirty-three dollars;

(B) Sixteen through fifty FTEs, ~~((one hundred thirty two))~~ one hundred sixty-one dollars;

(C) Fifty-one or more FTEs, ~~((one hundred ninety two))~~ two hundred thirty-four dollars and twenty cents; and

(c) A transfer of ownership fee of ~~((fifty))~~ sixty dollars. A transferred license will be valid for the remainder of the current license period.

(2) An applicant or licensee shall pay one-half the base fee in addition to the full fee for FTEs for each additional home health and/or hospice license.

(3) The department may charge and collect from a licensee a fee of ~~((one hundred ninety six))~~ two hundred fifty dollars for:

(a) A second on-site visit resulting from failure of the licensee or applicant to adequately respond to a statement of deficiencies; and

(b) A complete on-site survey resulting from a substantiated complaint; or

(c) A follow-up compliance survey.

(4) A licensee with deemed status shall pay fees according to this section.

(5) A licensee shall submit an additional late fee in the amount of ten dollars per day, not to exceed the cost of the base fee, from the renewal date until the date of mailing the fee, as evidenced by the postmark.

**WSR 98-09-124**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed April 22, 1998, 11:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-06-043.

Title of Rule: Chapter 296-400A WAC, Certification of competency for journeyman plumbers.

Purpose: To implement SSB 5749 (1997) by developing rules to establish a medical gas piping installer endorsement for journeyman plumbers certified by Washington state.

Legislative-initiated amendments to chapter 296-400A WAC, Certification of competency for journeyman plumbers, are proposed to implement 1997 legislation that amended chapter 18.106 RCW to create a medical gas piping installer endorsement for journeyman plumbers certified by Washington state. This legislation will be effective July 1, 1998. It requires the department to enact implementing rules. These legislative-initiated proposed amendments do establish additional compliance requirements.

WAC 296-400A-005 What definitions do I need to know to understand these rules? Legislative-initiated amendments are proposed to implement RCW 18.106.010(6) by adding definitions for "continuity affidavit," "medical gas piping installer" and "training course provider."

WAC 296-400A-021 How do I obtain a medical gas piping installer endorsement? Legislative-initiated amendments are proposed to implement RCW 18.106.030 by creating a new section that:

- Emphasizes that only journeyman plumbers holding active state of Washington certification may apply for the medical gas piping installer endorsement.
- Explains the procedures an applicant must follow to obtain a medical gas piping endorsement.
- Explains that persons holding a current medical gas piping installer certificate issued by a department recognized training provider, when these rules become effective, may apply for the medical gas piping installer endorsement without the medical gas piping installer examination.
- Explains that the required written and practical competency examinations will be given by a nationally recognized testing agency contracted by the department.

WAC 296-400A-025 Who approves medical gas piping installer endorsement training courses? Legislative-initiated amendments are proposed to implement RCW 18.106.050 by creating a new section that states the department's authority to approve training courses and set the fees for those courses.

WAC 296-400A-026 What training course approval procedures will the department follow? Legislative-initiated amendments are proposed to implement RCW 18.106.050 by creating a new section that describes the procedures the department will follow when approving medical gas piping installer training courses.

WAC 296-400A-027 Where can I obtain information regarding department approved training course providers? Legislative-initiated amendments are proposed to implement

PROPOSED

RCW 18.106.050 by creating a new section notifying potential medical gas piping installer applicants where they can obtain the names of department approved training course providers.

WAC 296-400A-030 Do I need a temporary permit? Legislative-initiated amendments are proposed to implement RCW 18.106.020 by clarifying that temporary permits for the installation of medical gas piping systems will not be issued to any active out-of-state plumber.

WAC 296-400A-045 What fees will I have to pay? Legislative-initiated amendments are proposed to implement RCW 18.106.050 by:

- Notifying endorsement applicants that they will have to pay a medical gas endorsement examination fee to a nationally recognized testing agent.
- Notifying endorsement applicants that they will have to pay a medical gas endorsement training course fee to a department approved training course provider.
- Clarifying that the purpose of the examination fee and the training course fee is to cover certain costs associated with the examinations and training courses.
- Emphasizing that the fees charged for the examinations and training courses do not go to the department but the entities conducting the examinations and providing the training courses.
- Clarifying that the continuity affidavit will include verification that brazing work has been performed.

WAC 296-400A-120 What do I need to know about plumber trainee certificates? Legislative-initiated amendments are proposed to implement RCW 18.106.070(4) by adding subsection (7). This subsection incorporates statutory language to clarify when a trainee may work on medical gas piping systems.

WAC 296-400A-140 How does the department enforce plumber certification requirements? Legislative-initiated amendments are proposed to implement RCW 18.106.170 by adding subsection (4). This subsection incorporates statutory language to emphasize that persons installing medical gas piping systems must possess an active plumber certification card and an active medical gas piping installer endorsement.

WAC 296-400A-300 What procedures does the department follow when issuing a notice of infraction? Legislative-initiated amendments are proposed to implement RCW 18.106.020(4) by adding subsection (3). This subsection explains that the department may issue an infraction to individuals, employers, employer agents and foremen who allow the installation of medical gas piping systems by individuals who do not possess a current plumber certificate and a current medical gas piping installer endorsement.

Note: The department has proposed certain medical piping installer endorsement fees in another CR-102 filing which was published in the Washington State Register on April 1, 1998, and will be taken to public hearing on April 23 and 24, 1998. Those fees are proposed amendments to WAC 296-400A-045 What fees will I have to pay?

State-initiated amendments to chapter 296-400A WAC, Certification of competency for journeyman plumbers, are proposed as a result of an Executive Order 97-02 review and the department's regulatory improvement goal to create rules that make sense and work well. After reviewing chapter 296-

400A WAC, the department is proposing the following amendments that clarify the chapter and bring it into compliance with chapter 18.106 RCW.

WAC 296-400A-005 What definitions do I need to know to understand these rules? State-initiated amendments are proposed to add a definition of "supervision." This definition clarifies the meaning of the word "supervision" as it is used in chapter 296-400A WAC. A supervising plumber must be on the premises and within sight or sound of the individual being trained.

WAC 296-400A-030 Do I need a temporary permit? State-initiated amendments are proposed to add the clarifying words "active" and "plumber" to the section.

WAC 296-400A-031 How do I qualify for a temporary permit? State-initiated amendments are proposed to add the clarifying word "active" to the section.

WAC 296-400A-035 How can I be placed on inactive status? State-initiated amendments are proposed to replace the word "registered" with "certified" in order to comply with chapter 18.106 RCW.

WAC 296-400A-070 Can I work as a certified plumber in Washington without taking the Washington state plumbers competency examination? State-initiated amendments are proposed to replace the word "registered" with "certified" in order to comply with chapter 18.106 RCW.

WAC 296-400A-110 Does previous work experience count toward my trainee certificate? State-initiated amendments are proposed to clarify the conditions governing the department's granting of credit for trainee hours.

WAC 296-400A-300 What procedures does the department follow when issuing a notice of infraction? State-initiated amendments are proposed to replace the word "citation" with "infraction" in subsections (1) and (4) in order to comply with chapter 18.106 RCW.

Statutory Authority for Adoption: Chapter 18.106 RCW.

Statute Being Implemented: SSB 5749 (1997).

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Kevin Morris, Tumwater, Washington, (360) 902-5578; Implementation and Enforcement: Patrick Woods, Tumwater, Washington, (360) 902-6348.

Name of Proponent: Department of Labor and Industries, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department does not consider the economic impact of the proposed rules to be a more than minor economic impact on business. Therefore, the preparation of a comprehensive small business economic impact statement is not required.

RCW 34.05.328 applies to this rule adoption. The proposed rules are "significant legislative rules" because they:

(1) Adopt substantive provisions of SSB 5749 through delegated legislative authority; (2) subject a violator to a penalty or a sanction; (3) change the requirements for issuing or suspending or revoking a certificate; (4) amend a significant regulatory program; and (5) will have a financial impact on the people they regulate.

Hearing Location: Department of Labor and Industries Building, Auditorium, 7273 Linderson Way, Tumwater, Washington, on May 26, 1998, at 1:30 p.m.; and at the Department of Labor and Industries, Spokane Service Location, Conference Room #4 (Third Floor), 901 North Monroe, Spokane, WA, on May 27, 1997 [1998], at 1:30 p.m.

Assistance for Persons with Disabilities: Contact George Huffman at (360) 902-6411 by May 15, 1998, TDD users please call (360) 902-5797.

Submit Written Comments to: Department of Labor and Industries, Attention: Kevin Morris, Chief Contractor Compliance/Plumber Certification, P.O. Box 44470, Olympia, WA 98504-4470, by no later than 5:00 p.m., June 3, 1998. FAX comments: In addition to written comments, the department will accept comments submitted to FAX (360) 902-5292 by 5:00 p.m., June 3, 1998. FAX comments: In addition to written comments, the department will accept comments submitted to FAX (360) 902-5292 by 5:00 p.m., June 3, 1998. Comments submitted by FAX must be ten pages or less.

Date of Intended Adoption: June 17, 1998.

April 22, 1998

Gary Moore  
Director

**AMENDATORY SECTION** (Amending WSR 97-11-052, filed 5/20/97, effective 6/30/97)

**WAC 296-400A-005 What definitions do I need to know to understand these rules?** Unless a different meaning is clearly required by the context, the following terms and definitions are important:

**"Advisory board"** is the state advisory board of plumbers.

**"Continuity affidavit"** is a form developed by the department that is used to verify whether medical gas pipe installation work has been performed. This form is provided to the department annually by the person holding the medical gas piping installer endorsement and requires the signature of the employer of the medical gas piping installer.

**"Department"** is the department of labor and industries.

**"Director"** is the director of the department of labor and industries.

**"Journeyman plumber"** is anyone who has learned the commercial plumbing trade and has been issued a journeyman certificate of competency by the department. A journeyman plumber may work on plumbing projects including residential, commercial and industrial worksite locations.

**"Medical gas piping installer"** is anyone who has been issued an endorsement of competency by the department.

**"Medical gas piping systems"** are piping systems that convey or involve oxygen, nitrous oxide, high pressure nitrogen, medical compressed air and medical vacuum systems.

**"Plumbing"** is that craft involved in installing, altering, repairing and renovating potable water systems, liquid waste systems and medical gas piping systems within a building. The installation of water softening or water treatment equipment into a water system is not considered plumbing.

**"Specialty plumber"** is anyone who has been issued a specialty plumbers certificate of competency by the department. Specialty plumber certificates are limited to the installation, maintenance and repair of plumbing for single-family dwellings, duplexes and apartment buildings which do not exceed three stories.

**"Supervision"** for the purpose of these rules means within sight or sound. Supervision requirements are met when the supervising plumber is on the premises and within sight or sound of the individual who is being trained.

**"Training course provider"** is an entity approved by the department, in consultation with the state advisory board of plumbers, to provide medical gas piping installer training. All training course providers must comply with the requirements in WAC 296-400A-026.

**"Trainee plumber"** is anyone who has been issued a trainee certificate and is learning or being trained in the plumbing trade with direct supervision of either a journeyman plumber or specialty plumber working in their specialty.

#### NEW SECTION

**WAC 296-400A-021 How do I obtain a medical gas piping installer endorsement? (Only journeyman plumbers holding active state of Washington certification may apply for this endorsement.)**

You can obtain a medical gas piping installer endorsement by completing the following requirements:

- (1) Submit an application to the department; and
- (2) Pay the examination application fee shown in WAC 296-400A-045; and
- (3) Submit the required evidence of approved training to the department; and
- (4) Pass the written and practical competency examination;\* and
- (5) Pay the endorsement issuance fee shown in WAC 296-400A-045 to the department.

At the effective date of these medical gas piping installer rules, if you hold a current medical gas piping installers certificate issued by a department recognized training provider you may apply for the state of Washington medical gas installer piping endorsement in lieu of taking the medical gas piping installer examination. This opportunity to obtain your endorsement without taking the examination will expire one year from the effective date of these medical gas piping installer rules.

\*The written and practical competency examination is performed under contract with a nationally recognized testing agency. The results of the competency examination will be forwarded to the department for processing.

PROPOSED

**NEW SECTION**

**WAC 296-400A-025 Who approves medical gas piping installer endorsement training courses?** RCW 18.106.050 authorizes the department to:

- (1) Approve training courses for the medical gas piping installer endorsement; and
- (2) Set training course fees.

**NEW SECTION**

**WAC 296-400A-026 What training course approval procedures will the department follow?** (1) The department will review and approve courses submitted by training course providers that offer medical gas piping systems training. Course approvals will be decided in consultation with the state advisory board of plumbers.

(2) All providers seeking course approval, must submit the required information (see subsection (5) of this section) to the department at least thirty days before a regularly scheduled advisory board meeting. **No course can be offered as meeting the requirements of a medical gas endorsement until it has been approved.**

(3) All material required for approval will be reviewed without testimony and the review will be based solely upon the information submitted. Once reviewed, the department has five working days to give a provider written notification of acceptance or rejection. In the case of rejection, the department must specify its reasons.

(4) If a provider has a course rejected, it may request a hearing before the advisory board at the next regularly scheduled meeting. Any information supporting the provider's position, which was not included with the original approval request, must be submitted to the board at least twenty days before the meeting at which the hearing will be held.

At the hearing, the department and the provider may produce witnesses and give testimony. The hearing must be conducted according to chapter 34.05 RCW. The board must base its decision upon the testimony and evidence presented and must notify the parties immediately upon reaching its decision. A majority of the board is necessary to render a decision.

(5) Specific course approval criteria:

(a) All training courses must conform to and be based upon current standards and requirements governing the installation of medical gas piping systems.

(b) All course approval requests must include:

(i) A general description of the course, including its scope, the instructional materials to be used and the instructional methods to be followed; and

(ii) A copy of the complete medical gas piping installer training curriculum; and

(iii) A detailed course outline; and

(iv) The name and qualifications of the course instructor(s); and

(v) The locations where the course will be taught; and

(vi) The days and hours the course will be offered; and

(vii) The specific fees associated with the course, as well as, the total cost of the course.

(c) All fees for approved training courses must be reasonable and in line with fees charged for other comparable code based training courses.

(6) Training courses are approved for a three-year period.

(7) A provider, whose courses are approved, must give the department literature describing the courses so the department can disseminate this information to prospective applicants.

(8) It is the responsibility of the provider to annually review and update its courses and to notify the department of any changes.

(9) The department may withdraw its approval of any training course if it determines the provider is no longer in compliance with the requirements of this chapter. If the department withdraws its approval of a training course, it must give the provider written notification of the withdrawal, specifying the reasons for its decision. If the department withdraws its approval of a training course, the provider may request a hearing before the advisory board at the next regularly scheduled meeting. Any information supporting the provider's position must be submitted to the board at least twenty days before the meeting at which the hearing will be held. At the hearing, the department and the provider may produce witnesses and give testimony. The hearing must be conducted according to chapter 34.05 RCW. The board must base its decision upon the testimony and evidence presented and must notify the parties immediately upon reaching its decision. A majority of the board is necessary to render a decision.

**NEW SECTION**

**WAC 296-400A-027 Where can I obtain information regarding department approved training course providers?** The department will produce a list of all approved training course providers and/or course contact persons. This list will be available to all applicants who request it. It will also be available at all department service locations.

**AMENDATORY SECTION** (Amending WSR 97-11-052, filed 5/20/97, effective 6/30/97)

**WAC 296-400A-030 Do I need a temporary permit?** If you are an active out-of-state journeyman plumber residing in a state that does not have a reciprocal agreement with Washington and you would like to work as a plumber in Washington, you need a temporary permit. Temporary permits are not issued for installers of medical gas piping systems.

**AMENDATORY SECTION** (Amending WSR 97-11-052, filed 5/20/97, effective 6/30/97)

**WAC 296-400A-031 How do I qualify for a temporary permit?** To qualify for a temporary permit, you must:

(1) Have ((a)) an active state-issued journeyman plumbers certificate; and

(2) Give the department sufficient qualifying evidence for a journeyman plumber certificate of competency; and



- (3) Never have taken the journeyman competency examination in Washington state; and
- (4) Not be an apprentice plumber.

**AMENDATORY SECTION** (Amending WSR 97-11-052, filed 5/20/97, effective 6/30/97)

**WAC 296-400A-035 How can I be placed on inactive status?** To be placed on inactive status, you must meet these three requirements:

- (1) Be a currently (~~registered~~) certified plumber; and
- (2) Be at least sixty-two years of age; and

<u>Type of Fee</u>	<u>Period Covered by Fee</u>	<u>Dollar Amount of Fee</u>
Examination application	Per examination	<del>\$(104.25)</del> <u>108.25</u>
Reciprocity application	Per application	<del>\$(104.25)</del> <u>108.25</u>
Trainee certificate*	One year	<del>\$(31.25)</del> <u>32.50</u>
Trainee certificate	Less than one year	\$3.00 per month with a minimum fee of <del>\$(20.75)</del> <u>21.50</u>
Temporary permit	90 days	<del>\$(52.00)</del> <u>54.25</u>
Journeyman or specialty certificate**	Two years	<del>\$(83.50)</del> <u>87.00</u>
Journeyman or specialty certificate	Less than two years	\$3.50 per month with a minimum fee of <del>\$(31.25)</del> <u>32.75</u>
<u>Medical gas endorsement examination application</u>	<u>Per application</u>	<u>\$40.00</u>
<u>Medical gas endorsement**</u>	<u>One year</u>	<u>\$30.00</u>
<u>Medical gas endorsement</u>	<u>Less than one year</u>	<u>\$2.50 per month with a minimum fee of \$17.50</u>
<u>Medical gas endorsement examination fee***</u>		<u>See note below.</u>
<u>Medical gas endorsement training course fee****</u>		<u>See note below.</u>
Reinstatement of a journeyman certificate		<del>\$(167.00)</del> <u>174.25</u>
Replacement of all certificates		<del>\$(31.25)</del> <u>32.50</u>

- (3) Not be working in the plumbing trade.

Inactive status means that you are not currently working in the plumbing trade and you are not required to pay the annual certificate renewal fee. You may return to active status, without reexamination, by paying the reinstatement of a journeyman certificate fee shown in WAC 296-400A-045.

**AMENDATORY SECTION** (Amending WSR 97-11-052, filed 5/20/97, effective 6/30/97)

**WAC 296-400A-045 What fees will I have to pay?** The following are the department's plumbers fees:

plumbers. It covers the cost of providing training courses required for the medical gas piping system installer endorsement. This fee is not paid to the department.

If your birth year is:

- (1) In an even-numbered year, your certificate will expire on your birthdate in the next even-numbered year.
- (2) In an odd-numbered year, your certificate will expire on your birthdate in the next odd-numbered year.

**Note:** The medical gas fees in this section will not be effective until the medical gas rules proposed by the department become effective.

\* The trainee certificate shall expire one year from the date of issuance and be renewed on or before the date of expiration.

\*\* This fee applies to either the original issuance or a renewal of a certificate. If you have passed the plumbers certificate of competency examination or the medical gas piping installer endorsement examination and paid the certificate fee, you will be issued a plumber certificate of competency or a medical gas endorsement that will expire on your birthdate.

The annual renewal of a Medical Gas Piping Installer Endorsement shall include a continuity affidavit verifying that brazing work has been performed within the past year.

\*\*\* This fee is paid directly to a nationally recognized testing agency under contract with the department. It covers the cost of preparing and administering the written competency examination and the materials necessary to conduct the practical competency examination required for the medical gas piping system installers endorsement. This fee is not paid to the department.

\*\*\*\* This fee is paid directly to a training course provider approved by the department, in consultation with the state advisory board of

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**AMENDATORY SECTION** (Amending WSR 97-11-052, filed 5/20/97, effective 6/30/97)

**WAC 296-400A-070 Can I work as a certified plumber in Washington without taking the Washington state plumbers competency examination?** You may be eligible to work in Washington state without taking an examination if:

- (1) You have a current plumbers certificate or license from another state; and
- (2) That state has a current reciprocal agreement with the department of labor and industries; and
- (3) You pay the reciprocity application fee and journeyman or specialty certificate fee shown in WAC 296-400A-045.

The director of labor and industries negotiates reciprocal agreements with states that have equivalent requirements for certification and licensing of journeyman and specialty plumbers. The agreement allows plumbers from those states to work in Washington and Washington-((registered)) certified plumbers to work in the other state without taking competency examinations. To find out if your state has an agreement with the department, contact the plumber's certification clerk at the department's Tumwater, WA headquarters.

Reciprocity agreements cannot be used to take the Washington state competency examination instead of the examination in your home state.

**AMENDATORY SECTION** (Amending WSR 97-11-052, filed 5/20/97, effective 6/30/97)

**WAC 296-400A-110 Does previous work experience count toward my trainee certificate?** If your work experience was in plumbing construction, you will be given credit for all verifiable hours that are properly submitted on the department's approved form. Plumber trainee hours accumulated in the state of Washington will be credited only if an active Washington state trainee card was in place when the work occurred. (Refer to the definition of "plumbing" in WAC 296-400A-005.)

**AMENDATORY SECTION** (Amending WSR 97-11-052, filed 5/20/97, effective 6/30/97)

**WAC 296-400A-120 What do I need to know about plumber trainee certificates?** (1) The department issues separate trainee certificates according to the following schedule:

Certificate Year	Hours Employed As Plumber Trainee
First	Less than 2,000 hours
Second	More than 1,999 hours but less than 4,000 hours
Third	More than 3,999 hours but less than 6,000 hours
Fourth	More than 5,999 hours

(2) You may apply for the next year's trainee certificate whenever you have the required documented work hours.

(3) You cannot be issued a training certificate for more than eight years unless the department determines that there are extenuating circumstances.

(4) If you are a trainee applying for a journeyman certificate, you must complete a minimum of two of the required four years in commercial plumbing experience.

(5) A certified specialty plumber working on a commercial job site may work as a journeyman trainee only if they have a current trainee certificate on their person while performing commercial plumbing work.

(6) On a job site, the ratio of certified plumbers to non-certified plumbers must be:

(a) One specialty plumber or journeyman working on a specialty plumbing job may supervise no more than two trainees.

(b) One journeyman plumber working on a commercial job may supervise no more than one trainee.

(7) A plumber trainee who has a current trainee certificate with the state of Washington and has successfully completed or is enrolled in an approved medical gas piping installer training course may work on medical gas piping systems. Work may only occur when there is direct supervision by an active Washington state certified journeyman plumber with an active medical gas piping installer endorsement issued by the department. Supervision must be one hundred percent of the working day on a one-to-one ratio.

**AMENDATORY SECTION** (Amending WSR 97-11-052, filed 5/20/97, effective 6/30/97)

**WAC 296-400A-140 How does the department enforce plumbers certification requirements?** The department enforces plumber certification requirements by means of job-site inspections conducted by department compliance inspectors. The inspector must determine whether:

(1) Each person doing plumbing work has a proper certificate on their person; and

(2) The ratio of certified specialty and/or journeyman plumbers to certified trainees is correct; and

(3) That each certified trainee is directly supervised by either a certified specialty plumber or a certified journeyman; and

(4) That persons who are installing medical gas piping systems have active medical gas piping installer endorsements in addition to their active plumber certification.

**AMENDATORY SECTION** (Amending WSR 97-11-052, filed 5/20/97, effective 6/30/97)

**WAC 296-400A-300 What procedures does the department follow when issuing a notice of infraction?** (1) If a compliance inspector determines that an individual has violated plumber certification requirements, including medical gas piping installer endorsement requirements, the department must issue a notice of infraction describing the reasons for the ~~((citation))~~ infraction.

(2) For plumber certification violations, the department may issue a notice of infraction to either:

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(a) An individual who is plumbing without a current plumber certificate; or

(b) The employer of the individual who is plumbing without a current plumber certificate; or

(c) The employer's authorizing agent or foreman that made the work assignment to the individual who is plumbing without a current plumber certificate.

(3) For medical gas piping installer endorsement violations, the department may issue a notice of infraction to either:

(a) An individual who is installing medical gas piping systems without a current plumber certificate and a current medical gas piping installer endorsement; or

(b) The employer of the individual who is installing medical gas piping systems without a current plumber certificate and a current medical gas piping installer endorsement; or

(c) The employer's authorizing agent or foreman that made the work assignment to the individual who is installing medical gas piping systems without a current plumber certificate and a current medical gas piping installer endorsement.

(4) An individual may appeal a notice of infraction by complying with the appropriate provisions of RCW 18.106.220.

~~((4))~~ (5) If good cause is shown, an administrative law judge may waive, reduce or suspend any monetary penalties resulting from the ~~((citation))~~ infraction.

~~((5))~~ (6) Any monetary penalties collected under this chapter, must be deposited in the plumbing certificate fund.

PROPOSED



**WSR 98-09-047**  
**EXPEDITED ADOPTION**  
**INDETERMINATE SENTENCE**  
**REVIEW BOARD**

[Filed April 15, 1998, 11:40 a.m.]

Title of Rule: Chapter 381-10 WAC, General administrative policies and chapter 381-20 WAC, Public records and disclosure.

**Purpose:** These chapters describe the board's general organization and policies as well as procedures relating to public disclosure.

**Statutory Authority for Adoption:** RCW 34.05.220 [(1)](b), 42.17.250.

**Statute Being Implemented:** RCW 34.05.220 [(1)](b), 42.17.250.

**Summary:** These proposals clarify existing rules.

**Reasons Supporting Proposal:** The changes clarify language relating to conflicts of interest, expands victim's options, and simplifies rules relating to access of records.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Dennis Marsh, 4317 6th Avenue S.E., Lacey, WA, phone (360) 493-9266.

**Name of Proponent:** Indeterminate Sentence Review Board, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** WAC 381-10-120 outlines the board's policy regarding conflicts of interest, WAC 381-10-170 outlines the board's policy regarding victim's rights, WAC 381-20-050, 381-20-090, and 381-20-100 outlines the board's policy for requesting public disclosure, disclosure procedures, and the appeal process.

**Proposal Changes the Following Existing Rules:** The changes are minor and are intended to either clarify or enhance existing rules. The change relating to conflicts of interest clarifies who may object to potential conflicts of interest. The change relating to victim's rights is intended to enhance access to the board and eliminates time restraints currently imposed. The changes relating to public records/disclosure would allow additional board staff to process public disclosure requests, thus allowing greater flexibility and more timely response to requests.

In all cases, the intent of the changes are to clarify or enhance existing rules without changing its effect. Thus, expedited adoption is appropriate pursuant to RCW 34.05.230 [(1)](c).

**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 Dennis Marsh, Indetermi-**

nate Sentence Review Board, P.O. Box 40907, Olympia, WA 98504-0907, AND RECEIVED BY July 1, 1998.

April 15, 1998

Kathryn S. Bail

Chair

**AMENDATORY SECTION** (Amending WSR 91-14-028, filed 6/26/91, effective 7/27/91)

**WAC 381-10-120 Conflict of interest.** It is the policy of the board that whenever a member or hearing officer has personal knowledge of a case, or a personal interest, or personal acquaintance of the subject person, any of which factors might reasonably be construed as having an influence on the outcome, the member or hearing officer shall withdraw completely from the decision-making process on that case if requested by any party to the proceeding.

**AMENDATORY SECTION** (Amending WSR 91-14-028, filed 6/26/91, effective 7/27/91)

**WAC 381-10-170 Victim's rights.** This rule is provided to ensure the orderly presentation of victim statements so that victims or their representatives may freely exercise their constitutional rights.

(1) Written statements. Consistent with prior board practices, the board will continue to ~~((allow))~~ encourage victims or their representatives to submit written statements to the board. Prior notification is not required for the submission of written statements.

(2) In-person statements. Upon notification either through the prosecuting attorney to the board, or directly to the board that an in-person statement is requested by the victim, such person shall be ~~((allowed))~~ invited to make an in-person statement to the board as a whole, or through a meeting with the chair prior to a final decision allowing an offender to be released on parole. Such statement will be ~~((limited to fifteen minutes and may only be))~~ made at a regularly scheduled board meeting. After notifying the board of intent to make an in-person statement, the victim or victim's representative will be advised of the time and place of the next board meeting where an in-person statement will be scheduled.

(3) Other statements. The board ~~((will))~~ also ~~((allow))~~ encourages victims or their representatives to submit audio cassette or video (VHS) tape statements. The statement will be presented at a regularly scheduled meeting before the offender's final parole release decision is made. ~~((Tape statements are limited to fifteen minutes in length.))~~

**AMENDATORY SECTION** (Amending WSR 91-14-028, filed 6/26/91, effective 7/27/91)

**WAC 381-20-050 Requests for public records.** (1) All requests for the disclosure of a public record must be in writing identifying the record sought with reasonable certainty. The written request should include:

- (a) The name of the person requesting the record.
- (b) The calendar date the request was made.

(c) The nature of the request.

(2) A request for disclosure shall be made during the customary business hours or by mail. Persons who appear at the board's office for the purpose of inspection and copying of the board files are requested to make an appointment (~~with the public disclosure coordinator~~) at least ten working days in advance in order to allow sufficient time for the removal and deletion of exempted record information.

(3) This chapter shall not be construed as giving authority to any agency to give, sell, or provide access to lists of individuals for any purpose, and the board shall not do so unless specifically authorized or directed by law.

(4) If the public record contains material exempt from disclosure pursuant to law, including those laws cited in WAC 381-20-010, the board must provide the person requesting disclosure with a written explanation for the non-disclosure, pursuant to WAC 381-20-090.

(5) Any person continuing to seek disclosure, after having received a written explanation for the nondisclosure, pursuant to WAC 381-20-090, may request a review under the provisions of WAC 381-20-100.

(6) When a person's identity is relevant to an exemption, that person may be required to provide personal identification.

(7) Nothing in this chapter, shall be construed to require the board to compile statistics or other information from material contained in public records, where doing so would unduly interfere with other essential functions of the board and is not required for litigation by rules of pretrial discovery.

(8) If public records or information contained in a board file are in the field for purposes of a hearing, and are thus not available, (~~the public disclosure coordinator or his designee~~) board staff shall promptly inform the person requesting disclosure that there will be a delay in responding to the disclosure request due to the unavailability of the public record.

(9) All requests from the press or media shall be referred to the chair or designee for response.

**AMENDATORY SECTION** (Amending WSR 91-14-028, filed 6/26/91, effective 7/27/91)

**WAC 381-20-090 Disclosure procedure.** (~~The public records officer~~) Board staff shall review file material prior to disclosure.

If the file does not contain materials exempt from disclosure, (~~the public records officer~~) board staff shall ensure full disclosure.

If the file does contain materials exempt from disclosure, (~~the public records officer~~) board staff shall exempt those portions of the file and shall, at the time of the denial, in writing, clearly specify the reasons for the denial of disclosure, including a statement of the specific exemptions or reasons authorizing the withholding of the record and a brief explanation of how the exemption applies. The remaining nonexempt materials shall be fully disclosed pursuant to this chapter.

**AMENDATORY SECTION** (Amending WSR 91-14-028, filed 6/26/91, effective 7/27/91)

**WAC 381-20-100 Remedy for review of denial of disclosure.** (1) If the person requesting disclosure disagrees with the decision of (~~a public disclosure reviewer~~) board staff denying disclosure of a public record, this person may, at any time, petition the board's (~~public records~~) executive officer for review of the decision denying disclosure. The form used by (~~the public disclosure reviewer~~) board staff to deny disclosure of a public record shall clearly indicate this right of review.

(2) The (~~public records~~) executive officer shall review decisions denying disclosure in the most prompt fashion possible, and such review shall be deemed completed at the end of the second business day following receipt by the board of the petition for review. This shall constitute final agency action for the purposes of judicial review, pursuant to RCW 42.17.320.

**WSR 98-09-080**

**EXPEDITED ADOPTION  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed April 21, 1998, 12:05 p.m.]

Title of Rule: Commercial fishing rules.

Purpose: Amend coastal bottomfish catch limits.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Amends coastal bottomfish rules to conform with seasons set by the Pacific Fisheries Management Council.

Reasons Supporting Proposal: Allow catch of harvestable bottomfish while conserving resource for future reproduction.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, 902-2930; Implementation: Bruce Crawford, 1111 Washington Street, Olympia, 902-2325; and Enforcement: Ron Swatfigure, 1111 Washington Street, Olympia, 902-2927.

Name of Proponent: Washington State Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Coastal bottomfish are managed on an annual catch limit basis, and yearly changes are made, based on the previous year's catch and harvest limit projections. These limits are set by the Pacific Fisheries Management Council, and affect fishing in territorial and offshore waters. This rule sets the 1998 catch limits and allows a take of the harvestable surplus.

Proposal Changes the Following Existing Rules: Amends catch limits.

**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 Evan Jacoby, Department of Fish and Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, AND RECEIVED BY June 20, 1998.

April 21, 1998

Evan Jacoby  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-05-043, filed 2/11/98, effective 3/14/98)

**WAC 220-44-050 Coastal bottomfish catch limits.** It is unlawful to possess, transport through the waters of the state, or land in any Washington state port bottomfish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the species indicated. All weights are in round pounds:

(1) The following definitions apply to this section:

(a) Cumulative limit. A cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel per calendar month, without a limit on the number of landings or trips. For B-platoon vessels (see (b) of this subsection) a calendar month is the 16th of the month through the 15th of the following month. B-platoon vessels may take the final two cumulative limits during the November 16-December 31 period with no restriction on the amount of the total which can be harvested in either calendar month. The cumulative limit includes all fish harvested by a vessel during the month, whether taken in limited entry or open access fisheries. Once a cumulative limit has been achieved, an operator may begin fishing on the next cumulative limit so long as the fish are not landed until after the beginning of the next cumulative limit.

(b) Two-month cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel per two fixed-calendar month period, without a limit on the number of landings or trips. The fixed two-month periods are January-February, March-April, May-June, July-August, September-October and November-December, except for vessels that have elected to be endorsed in the "B-platoon" on their trawl federal limited entry permit. Two-month cumulative periods for B-platoon vessels are January 16-March 15, March 16-May 15, May 16-July 15, July 16-September 15, September 16-November 15, and November 16-December 31. No more than sixty percent of any two-month cumulative limit may be taken and retained, possessed or landed per vessel in either calendar month of the fixed, two-month period except for vessels in the B-platoon during November 16-December 31, during which the two-month cumulative limit may be taken with no percentage restriction. The first calendar month for purposes of the 60

percent restriction for B-platoon vessels in other periods begins on the 16th of the first month of the B-platoon two-month cumulative period as set out above through the 15th of the following month and the second calendar month begins on the 16th of the second month through the end of the two-month cumulative period. The two-month cumulative limit includes all fish harvested by a vessel during the two-month period, whether taken in limited entry or open access fisheries. Once a two-month cumulative limit has been achieved, an operator may begin fishing on the next two-month cumulative limit so long as the fish are not landed until after the beginning of the next two-month cumulative period.

(c) Vessel trip. A vessel trip is defined as having occurred upon the initiation of transfer of catch from a fishing vessel.

(d) Vessel trip limit. The amount of fish that may not be exceeded per vessel trip. All fish aboard a fishing vessel upon the initiation of transfer of catch are to be counted towards the vessel trip limit.

(e) Daily trip limit. The maximum amount of fish that may be taken and retained, possessed, or landed per vessel from a single fishing trip in 24 consecutive hours, starting at 0001 hours local time.

(f) Groundfish limited entry fishery - Fishing activity by a trawl, setline or bottomfish pot equipped vessel that has received a federal limited entry permit issued by the National Marine Fisheries Service endorsed for the qualifying gear type.

(g) Groundfish open access fishery - Fishing activity by a vessel equipped with setline or bottomfish pot gear that has not received a federal limited entry permit, or a vessel using gear other than trawl, setline or bottomfish pot gear.

(h) Dressed length - The dressed length of a fish is the distance from the anterior insertion of the first dorsal fin to the tip of the tail.

(2) Groundfish limited entry fishery limits. The following limits apply to the groundfish limited entry fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, ((59A)) 59A-1, 59A-2, 59B, ((60A)) 60A-1, 60A-2, 61, 62, and 63:

(a) Pacific Ocean perch - Two-month cumulative limit of ((10,000)) 8,000 pounds. No minimum size.

(b) Widow rockfish - Two-month cumulative limit of ((70,000)) 25,000 pounds. No minimum size.

(c) Shortbelly rockfish - No maximum poundage. No minimum size.

(d) Black rockfish - The vessel trip limit for black rockfish for commercial fishing vessels using hook-and-line gear between the U.S. Canada border and Cape Alava (48°09'30" N. latitude) and between Destruction Island (47°40'00" N. latitude) and Leadbetter Point (46°38'10" N. latitude), ((and fishing beyond the three-mile territorial limit)) is 100 pounds (round weight) or 30 percent by weight of all fish on board including salmon, whichever is greater, per vessel trip.

(e) *Sebastes complex* - All species of rockfish except Pacific Ocean perch, widow, shortbelly and thornyhead (*Sebastolobus spp.*)((:

(i) North of Cape Lookout and south of Cape Lookout if no declaration has been made)) - Two-month cumulative

limit of ~~((70,000))~~ 40,000 pounds, of which no more than ~~((32,000))~~ 11,000 pounds may be yellowtail rockfish and no more than ~~((18,000))~~ 15,000 pounds may be canary rockfish. No minimum size on any species in this category.

~~((ii))~~ ~~South of Cape Lookout—Two month cumulative limit of 100,000 pounds of which no more than 70,000 pounds may be yellowtail rockfish and no more than 18,000 pounds may be canary rockfish, provided the licensee has made a declaration as follows:~~

~~(A) The declaration must be made at least 12 hours prior to departing from port by telephoning the department Montesano office at (360) 249-4628, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The declarer will receive a declaration number from the department.~~

~~(B) The declaration must include: Vessel name; federal limited entry permit number; operator's name, phone number and address; anticipated date and port of departure; anticipated date and port of return.~~

~~(C) Phone declarations must be followed by a written declaration, signed by the operator and mailed or delivered to the Montesano office at 48 Devonshire Road, Montesano, WA 98563, prior to the day of departure. Forms are available at that office or from coastal processors.~~

~~(D) No fishing north of Cape Lookout is allowed after declaring for fishing south of Cape Lookout until the vessel has landed at a Washington or Oregon port and notified the Montesano office during business hours.~~

~~((iii)) There is a maximum two month cumulative limit for landings from both north and south of Cape Lookout of 100,000 pounds of which no more than 70,000 pounds may be yellowtail rockfish and no more than 18,000 pounds may be canary rockfish.~~

~~((iv)) Wholesale fish dealers purchasing more than 42,000 pounds of the *Sebastes complex*, 19,200 pounds of yellowtail rockfish or 10,800 pounds of canary rockfish must enter the declaration number on the fish receiving ticket.))~~

~~(f) DTS Complex - (sablefish, dover sole and thornyhead rockfish) - ((Two month cumulative limit of 70,000 pounds, of which no more than 12,000 pounds may be sablefish and not more than 20,000 pounds may be thornyhead rockfish of which no more than 4,000 pounds may be shortspine thornyheads.)) For the January-February two-month cumulative period, two-month cumulative limit of 59,000 pounds, of which not more than 40,000 pounds may be Dover sole; not more than 5,000 pounds may be sablefish for trawl vessels and not more than 1,500 pounds may be sablefish for non-trawl vessels; not more than 10,000 pounds may be longspine thornyhead rockfish, and not more than 4,000 pounds may be shortspine thornyhead. Effective 12:01 a.m., March 1, two-month cumulative limit of 37,000 pounds, of which not more than 18,000 pounds may be Dover sole; not more than 5,000 pounds may be sablefish for trawl vessels and not more than 1,500 pounds may be sablefish for non-trawl vessels; not more than 10,000 pounds may be longspine thornyhead rockfish, and not more than 4,000 pounds may be shortspine thornyhead.~~

~~(g) Sablefish.~~

~~(i) Trawl vessels - Not more than 500 pounds ((round weight)) of sablefish per trip may be sablefish less than 22 inches total length. Sablefish total length of 22 inches is~~

equivalent to dressed length of 15.5 inches. To convert sablefish from dressed weight to round weight, multiply the dressed weight by 1.6.

~~((ii)) Nontrawl vessels - Daily trip limit of 300 pounds ((round weight)) not to exceed 1,500 pounds in any single calendar month. The 60 percent restriction does not apply to nontrawl vessel sablefish landings. No minimum size. ((Effective 0001 hours September 1, 1996, no maximum poundage. Not more than 1,500 pounds or 3 percent of all sablefish aboard, per trip, may be sablefish less than 22 inches in length (15.5 inches dressed length).))~~

~~(h) Pacific whiting - Vessel trip limit of 10,000 pounds. No minimum size. ((Effective 0001 hours May 15, 1996, no maximum poundage.))~~

~~(i) Lingcod - Two-month cumulative limit of ((40,000)) 1,000 pounds. Total length minimum size limit of ((22)) 24 inches. Lingcod total length of ((22)) 24 inches is equivalent to dressed length of ((18)) 19.5 inches. To convert lingcod from dressed weight to round weight, multiply the dressed weight by 1.5. To convert lingcod from dressed, head on (gutted only) weight, multiply the dressed weight by 1.1. It is lawful to land up to 100 pounds of lingcod under 24 inches taken in the trawl fishery only.~~

~~(3) Groundfish open access fishery limits. The following limits apply to the ground fish open access fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, ((59A)) 59A-1, 59A-2, 59B, ((60A)) 60A-1, 60A-2, 61, 62, and 63. Notwithstanding the provisions of this subsection, no groundfish open access fishery limit may exceed a groundfish limited entry fishery daily, vessel or cumulative limit or exceed fifty percent of a ground fish limited entry fishery two-month cumulative limit:~~

~~(a) Sablefish - Daily trip limit of 300 pounds (round weight) not to exceed 600 pounds in any two-month cumulative period. The 60 percent restriction does not apply to open access sablefish landings. No minimum size.~~

~~(b) Rockfish.~~

~~Vessel trip limit of 10,000 pounds. Cumulative trip limit of ((35,000)) 40,000 pounds except black rockfish and thornyhead rockfish.~~

~~(c) Black rockfish - The vessel trip limit for black rockfish for commercial fishing vessels using hook-and-line gear between the U.S. Canada border and Cape Alava (48°09'30" N. latitude) and between Destruction Island (47°40'00" N. latitude) and Leadbetter Point (46°38'10" N. latitude), is 100 pounds (round weight) or 30 percent by weight of all fish on board including salmon, whichever is greater, per vessel trip.~~

~~(d) Lingcod - Two-month cumulative limit of ((20,000)) 1,000 pounds. Total length minimum size limit of ((22)) 24 inches. Lingcod total length of ((22)) 24 inches is equivalent to dressed length of ((18)) 19.5 inches. To convert lingcod from dressed weight to round weight, multiply the dressed weight by 1.5. To convert lingcod from dressed head on (gutted only) weight, multiply the dressed weight by 1.1. The 60 percent restriction does not apply to open access lingcod landings.~~

~~((d)) (e) Thornyhead rockfish - ((Daily trip limit of 50 pounds (round weight). No minimum size.)) Illegal to take, possess, transport or land thornyhead rockfish.~~



(4) It is unlawful for the operator of any vessel during unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species a species or category of bottomfish having a cumulative limit, vessel trip limit, or a daily trip limit.

(5) The fisher's copy of all fish receiving tickets showing landings of species provided for in this section must be retained aboard the landing vessel for 90 days after landing.

**WSR 98-09-083**  
**EXPEDITED ADOPTION**  
**CODE REVISER'S OFFICE**  
 [Filed April 21, 1998, 2:50 p.m.]

Title of Rule: WAC 1-21-010 Preproposal statement of inquiry and 1-21-020 Notice—Form, contents, numbers.

Purpose: Amending WAC 1-21-010 to reflect the new requirements imposed by section 6, chapter 280, Laws of 1998; and WAC 1-21-020 to change the RCW citation from RCW 34.05.230 to RCW 34.05.356 to reflect section 2, chapter 280, Laws of 1998.

Statutory Authority for Adoption: RCW 1.08.110, 34.05.385, 34.08.020, and 34.08.030.

Statute Being Implemented: RCW 34.05.354 as amended by section 6, chapter 280, Laws of 1998; and section 2, chapter 280, Laws of 1998.

Summary: Amending WAC 1-21-010 to eliminate the date restriction which will allow the agencies to file expedited repeals at any time; and amending WAC 1-21-020 to change the RCW citation from RCW 34.05.230 to RCW 34.05.356.

Reasons Supporting Proposal: Necessary to implement sections 2 and 6, chapter 280, Laws of 1998.

Name of Agency Personnel Responsible for Drafting: Gary Reid, Legislative Building, Olympia, Washington, (360) 786-6777; Implementation and Enforcement: Code Reviser's Office, Legislative Building, Olympia, Washington, (360) 786-6777.

Name of Proponent: Code Reviser's Office, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amending WAC 1-21-010 to delete the language which restricts expedited repeals be published only twice a year; and amending WAC 1-21-020 to change the RCW citations to reflect section 2, chapter 280, Laws of 1998.

Proposal Changes the Following Existing Rules: It changes WAC 1-21-010 by eliminating the language which restricts expedited repeals be published only twice each year; and WAC 1-21-020 to reflect the new RCW citation, RCW 34.05.356.

**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 Kerry S. Radcliff, Code Reviser's Office, P.O. Box 40551, Olympia, WA 98504-0551, AND RECEIVED BY June 20, 1998.

April 21, 1998  
 Dennis W. Cooper  
 Code Reviser

AMENDATORY SECTION (Amending WSR 97-15-035, filed 7/10/97, effective 7/27/97)

**WAC 1-21-010 Preproposal statement of inquiry.** To solicit comments from the public as required by RCW 34.05.310 on a subject of possible rule making, but before a formal notice is filed under RCW 34.05.320, an agency shall complete and file with the code reviser's office a CR-101 form (Preproposal Statement of Inquiry). This requirement does not apply to all rule making. The exceptions are set forth in RCW 34.05.310(4).

The text of the new rule is neither required nor recommended at this stage, but if text is submitted for filing, it must meet the form and style requirements of WAC 1-21-110 through 1-21-130. The filing will appear in the Register in accordance with the schedule provided in WAC 1-21-040. Note that the CR-101 must be published at least thirty days before the CR-102 form (Proposed Rule Making) may be filed.

WAC sections proposed for expedited repeal under RCW 34.05.354 should be listed by citation and caption only, either individually or by entire chapter (~~and filed either March 10th through April 1st or September 10th through October 1st of each year~~).

AMENDATORY SECTION (Amending WSR 97-15-035, filed 7/10/97, effective 7/27/97)

**WAC 1-21-020 Notice—Form, contents, numbers.** (1)(a) An agency shall file a regular notice of proposed rule making under RCW 34.05.320 with the code reviser's office on a CR-102 form (Proposed Rule Making). The agency must file the full text of the proposed rule along with the Notice form (RCW 34.08.020). This filing must be at least thirty days after the CR-101 form, if required, was published (RCW 34.05.310); or

(b) An agency shall file notice for the expedited adoption of rules under RCW (~~34.05.230~~) 34.05.356 with the code reviser's office on a CR-102XA form (Expedited Adoption—Proposed Rule Making). The agency must file the full text of the proposed rule along with the CR-102XA form (RCW (~~34.05.230~~) 34.05.356). This filing must be published in the Register at least forty-five days before the agency may adopt the proposal and file a CR-103 form (Rule-Making Order).

(2) The agency shall file the original and six copies of either notice package (form and text). The code reviser's office will keep the original and two copies and return four

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stamped copies to the agency. The joint administrative rules review committee has requested that the agency submit three of these copies to the committee for purposes of legislative review. The agency should keep the remaining copy for its files.

EXPEDITED ADOPTION

**WSR 98-09-012**  
**PERMANENT RULES**  
**GRAYS HARBOR COLLEGE**

[Filed April 6, 1998, 2:35 p.m.]

Date of Adoption: April 1, 1998.

Purpose: To update and revise the college's student code of conduct.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 132B-120-050 through 132B-120-070, 132B-120-090 through 132B-120-110, and 132B-120-140 through 132B-120-160; and amending WAC 132B-120-010 through 132B-120-040, 132B-120-080, 132B-120-120, 132B-120-130, and 132B-120-170 through 132B-120-200.

Statutory Authority for Adoption: RCW 28B.50.140(13).

Adopted under notice filed as WSR 98-05-149 [98-05-049] on February 13, 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 7, Amended 11, Repealed 9.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 7, Amended 11, Repealed 9.

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.

April 1, 1998

Arlene Torgerson

Vice-President

for Student Services

**AMENDATORY SECTION** (Amending WSR 91-11-102, filed 5/22/91, effective 6/22/91)

**WAC 132B-120-010 Definitions.** As used in this document the following words and phrases shall mean:

(1) "Board" shall mean the board of trustees of Community College District No. 2, state of Washington.

(2) "College" shall mean Grays Harbor College or any additional community college hereafter established within Community College District No. 2, state of Washington.

(3) "Liquor" shall mean the definition of liquor as contained within RCW 66.04.010((46)) as now law or hereafter amended.

(4) ("~~Drugs~~") "Controlled substances" shall mean (~~and include any narcotic drug as defined in RCW 69.50.101(e), any~~) the definition of controlled substances as defined in RCW ((69.50.201 through 69.50.212 or any legend drug as defined in RCW 69.41.010(8)) 69.50.101 as now law or hereafter amended.

(5) "College facilities" shall mean and include any or all real property owned, rented, leased, controlled or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto.

(6) "President" shall mean the chief executive officer of the college appointed by the board of trustees.

(7) (~~"Disciplinary officials" shall mean the hearing committee as denominated in WAC 132B-120-170, the dean of student services and/or the vice president for instruction, and the president.~~

(8) "~~Student~~" shall mean and include any person who is regularly enrolled at the college.

(9) "~~Disciplinary action~~" shall mean and include the warning, probation, expulsion, suspension, or reprimand of any student pursuant to WAC 132B-120-120 for the violation of any designated rule or regulation of the rules of student conduct for which a student is subject to disciplinary action.)) "Faculty" shall mean any person employed on a full or part-time basis as a teacher, instructor, counselor or librarian.

(8) "Student" shall mean and include any person who is enrolled at the college or is in the process of applying for admission to the college.

(9) "Employee" shall mean any classified, faculty, administrator, exempt, student worker or volunteer person.

(10) "College community" shall mean all employees and students of the college.

(11) "Disciplinary action" shall mean any of the sanctions listed in WAC 132B-120-130.

(12) "Sexual harassment" shall mean unwelcome verbal or physical conduct of a sexual nature, unwelcome or unsolicited sexual advances or requests for sexual favors when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's academic standing or employment;

(b) Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual; or

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or educational environment.

Examples of behaviors that may constitute harassment include but are not limited to: Repeated, offensive and unwelcome insults and/or jokes; pressure for dates or sex, if unwelcome or repeated; repeated, unwelcome comments about an individual's body or clothing; persistent, unwelcome flirtation, advances and/or propositions of a sexual nature; deliberate and unwelcome touching, such as patting, hugging, pinching or repeated brushing against a person's body.

(13) "Hazing" shall mean any method of initiation into a student organization or association or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending any institution of higher education or post-secondary institution. Hazing does not include customary athletic events or other similar contests or competitions.

(14) "Trespass" shall be defined in accordance with chapter 9A.52 RCW.

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(15) "Assembly" shall mean any activity engaged in by two or more persons the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information to any person, persons or group of persons.

(16) "RCW" shall mean the Revised Code of Washington.

**AMENDATORY SECTION** (Amending Order 80-1, Resolution No. 10-80, filed 8/6/80)

**WAC 132B-120-020 Statement of ((purpose)) policy and community philosophy.** (1) Grays Harbor College is maintained by the state of Washington for the provision of programs of instruction in higher education and related community services. Like any other institution having its own special purposes, the college must maintain conditions conducive to the effective performance of its functions. Consequently, it has special expectations regarding the conduct of the various participants in the college community.

(2) Admission to the college carries with it the prescription that the student will conduct himself/herself as a responsible member of the college community. This includes an expectation that the student will ~~((obey appropriate laws, will comply with the rules and regulations of the college and its departments, and will maintain a high standard of integrity and honesty.~~

~~(3) Sanctions for violations of college regulations or conduct which interferes with the operation of college affairs will be dealt with by the college, and the college may impose sanctions independently of any action taken by civil authorities. In the case of minors, misconduct may be referred to parents or legal guardians):~~

Obey appropriate laws;

Comply with the rules and regulations of the college;

Practice personal and academic integrity;

Respect the dignity of all persons;

Respect the rights and property of others;

Discourage bigotry, striving to learn from differences in people, ideas and opinions;

Demonstrate concern for others' feelings and their need for conditions which support their work and development;

Refrain from and discourage behaviors which undermine the respect all GHC community members deserve.

**AMENDATORY SECTION** (Amending Order 80-1, Resolution No. 10-80, filed 8/6/80)

**WAC 132B-120-030 Jurisdiction.** All rules herein adopted concerning student conduct and discipline shall apply to every student ~~((enrolled at the college))~~ whenever said student is engaged in or present at any college-related activity whether occurring on or off of college facilities.

**AMENDATORY SECTION** (Amending Order 80-1, Resolution No. 10-80, filed 8/6/80)

**WAC 132B-120-040 ((Student misconduct.)) Prohibited conduct.** Disciplinary action may be taken for a violation of any provision of this student code~~((;))~~ or for a violation of other college rules and regulations which may from

time to time be properly enacted~~((;))~~ or for ~~((any of the following types of misconduct:~~

~~(1) Smoking is prohibited in all classrooms and the library and other areas so posted by college officials.~~

~~(2) The possession, use, sale or distribution of any alcoholic beverage or illegal drug on the college campus is prohibited. The use of illegal drugs by any Grays Harbor College student attending a college-sponsored event is also prohibited, even though the event does not take place at the college. The use of alcohol by any Grays Harbor College student attending such events on noncollege property shall conform to state law.~~

~~(3)) specific prohibited conduct including but not limited to the following:~~

~~(1) Smoking and use of tobacco products anywhere other than designated smoking areas.~~

~~(2) Using, possessing, consuming, or being under the influence of, or selling any liquor as defined in RCW 66.04.010, in violation of law or in a manner which disrupts a college activity.~~

~~(3) Using, possessing, selling or being under the influence of any narcotic drug or controlled substance as defined in RCW 69.50.101 in a college facility or while participating in a college-related program.~~

~~(4) Engaging in lewd, indecent, or obscene behavior.~~

~~((4)) (5) Where the student presents an imminent danger to college property or to himself/herself or to other students or persons in college facilities on or off campus, or to the education process of the college.~~

~~((5) Academic dishonesty, including cheating, plagiarism, or knowingly furnishing false information to the college.~~

~~(6) The intentional making of false statements and/or filing of false charges against the college and members of the college community.~~

~~(7) Forgery, alteration, or misuse of college documents, records, funds or instruments of identification with the intent to defraud.~~

~~(8) Theft from or damage to college premises and/or property, or theft of or damage to property of a member of the college community or college premises.~~

~~(9) Failure to comply with the direction of college officials acting in the legitimate performance of their duties.~~

~~(10) Possession of firearms, licensed or unlicensed, except where possessed by commissioned police officers as prescribed by law.) (6) Interference by force or violence with, or intimidation by threat of force or violence, of another student, employee or visitor who is in the peaceful discharge or conduct of his/her duties or studies (RCW 28B.10.570 through 28B.10.572).~~

~~(7) Disorderly or abusive behavior which interferes with the rights of others or which obstructs or disrupts teaching, learning, research or administrative functions.~~

~~(8) Conducting or participating in an assembly which violates the guidelines of assembly as defined in Section II E.~~

~~(9) All forms of student academic dishonesty, including cheating, falsification, plagiarism or facilitating, aiding and abetting academic dishonesty.~~

This section shall not be construed as preventing an instructor from taking immediate disciplinary action as pro-

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vided herein where the instructor is required to act upon such breach of academic dishonesty in order to preserve order and prevent disruptive conduct in the classroom. This section shall also not be construed as preventing an instructor from adjusting the student's grade on a particular project, paper, test, or class grade for academic dishonesty.

(10) Forgery of or unauthorized alteration of or access to any college document, record, funds or instrument of identification, including electronic hardware, software and records.

(11) The intentional making of false statements and/or filing of false charges against the college and/or members of the college community.

(12) Theft from college premises and/or property; theft of property of a member of the college community on college premises; or possession of property stolen from college premises and/or a member of the college community while on college premises.

(13) Causing or attempting to cause physical damage to property owned, controlled or operated by the college or to property owned, controlled or operated by another person while said property is located on college facilities.

(14) Failure to comply with the direction of college employees acting in the legitimate performance of their duties.

(15) Refusal to provide positive identification and evidence of student enrollment to any college employee in the lawful discharge of said employee's duties.

(16) Possession, transportation or storage of any firearm(s), explosives, dangerous chemicals or other weapons, devices or substances which can be used to inflict bodily harm or to damage real or personal property. This does not apply to commissioned police officers as prescribed by law.

(17) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.

(18) Violating any of the computer use policies in effect on campus.

(19) Sexual harassment as defined in Section IB12 of another student or employee.

(20) Any repeated intentional conduct directed at another student or employee that has the purpose or effect of creating a hostile, intimidating or disruptive learning or working environment. (This may include intentional, repeated, unwelcome attempts to contact a student or employee.)

(21) Hazing in any form as described in RCW 28B.10.900.

#### NEW SECTION

**WAC 132B-120-055 Trespass.** The vice-president of student services or his or her designee(s) shall have the authority and power to prohibit the entry or withdraw the license or privilege of any person or group of persons to enter into or remain on any college property or facility. Such power and authority may be exercised to halt any event or activity which is deemed to be unreasonably disruptive of order or impedes the movement of persons or vehicles or which disrupts or threatens to disrupt the ingress and/or egress of persons from facilities owned and/or operated by

the college. Any person remaining on or reentering college property after receiving notice that his/her license or privilege to be on that property has been revoked shall be subject to arrest for criminal trespass.

#### NEW SECTION

**WAC 132B-120-065 Student rights.** The following rights are endorsed by the college for each student within the limitations of statutory law and college policy which are deemed necessary to achieve the educational goals of the college:

(1) Academic freedom.

(a) Students are guaranteed rights of free inquiry, expression and peaceful assembly upon and within college facilities that are generally open and available to the public.

(b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(c) Students have the right to a learning environment which is free from unlawful discrimination and sexual harassment.

(d) Students are protected from academic evaluation which is arbitrary, prejudiced or capricious, and are responsible for meeting the standards of academic performance established by each of their instructors.

(2) Nondiscrimination. Students have the right not to be discriminated against on the basis of age, color, creed, disability, gender, marital status, national origin or ancestry, race, religion, sexual orientation, or veteran status.

(3) Due process. Students have the right of due process. No disciplinary action may be imposed without notice to the accused of the nature of the charges. A student accused of violating the code of conduct is entitled to procedural due process as set forth in the code.

(4) Campus speakers. Recognized student organizations shall have the right to invite outside speakers to speak on campus subject to the availability of campus facilities, funding and compliance with college procedures.

(5) Right to assembly. Students shall have the right of assembly upon college facilities that are generally available to the public provided such assemblies:

(a) Are conducted in an orderly manner;

(b) Do not unreasonably interfere with vehicular or pedestrian traffic;

(c) Do not unreasonably interfere with classes, scheduled meetings or ceremonies or regular functions of the college;

(d) Do not cause destruction or damage to college property.

(6) Distribution of materials. Handbills, leaflets, newspapers and similarly related materials may be distributed free of charge by any student or students, or by members of recognized student organizations, or by college employees on or in college facilities at locations specifically designated by the vice-president for student services; provided such distribution does not interfere with the ingress or egress of persons or interfere with the free flow of vehicular or pedestrian traffic.

Such handbills, leaflets, newspaper and related matter must bear identification as to the publishing agency and distributing organization or individual.

All nonstudents shall register with the vice-president for student services prior to the distribution of any handbill, leaflet, newspaper or related matter. Such distribution must not interfere with the free flow of vehicular or pedestrian traffic.

Any person or persons who violate any provisions of this rule relating to the distribution of materials will be subject to disciplinary action.

(7) Commercial activities. College facilities will not be used for commercial solicitation, advertising or promotional activities except when such activities clearly serve educational objectives, including but not limited to display of books of interest to the academic community or the display or demonstration of technical or research equipment, and when such commercial activities relate to educational objectives and are conducted under the sponsorship or at the request of the college, or the office of the associated students of the college; provided that such solicitation does not interfere with or operate to the detriment of the conduct of college affairs or the free flow of vehicular or pedestrian traffic.

(8) Fund-raising. Students and student organizations have the right to engage in fund-raising activities subject to the approval of the vice-president for student services.

(9) Grievances. Students have the right to express and resolve misunderstandings, complaints and grievances according to the stated grievance procedures.

#### NEW SECTION

**WAC 132B-120-075 Student responsibilities.** Students who choose to attend Grays Harbor College also choose to participate actively in the learning process offered by the college. The college is responsible for providing its students with an educational environment rich in the high quality resources needed by students to attain their educational goals. In return, the college desires that each student assume responsibility to:

- (1) Participate actively in the learning process, both in and out of the classroom;
- (2) Seek timely assistance in meeting educational goals;
- (3) Attend all class sessions;
- (4) Prepare adequately to participate fully in class activities;
- (5) Participate actively in the academic advising system;
- (6) Develop skills required for learning, e.g., basic skills, time management, and study skills;
- (7) Assume final authority for the selection of appropriate educational goals;
- (8) Select courses appropriate for meeting chosen educational goals;
- (9) Make appropriate use of services;
- (10) Contribute towards improving the college;
- (11) Become knowledgeable of and adhere to the college's policies, practices and procedures;
- (12) Abide by the standards set forth in the code of conduct.

AMENDATORY SECTION (Amending Order 80-1, Resolution No. 10-80, filed 8/6/80)

**WAC 132B-120-080 (~~Academic dishonesty~~) Classroom conduct.** ~~((1) Academic dishonesty: Honest assessment of student performance is of crucial importance to all members of the academic community. Acts of dishonesty are serious breaches of honor and shall be dealt with in the following manner:~~

~~(a) It is the responsibility of the college administration and teaching faculty to provide reasonable and prudent security measures designed to minimize opportunities for acts of academic dishonesty which occur at the college.~~

~~(b) Any student who, for the purpose of fulfilling any assignment or task required by a faculty member as part of the student's program of instruction, shall knowingly tender any work product that the student fraudulently represents to the faculty member as the student's work product, shall be deemed to have committed an act of academic dishonesty. Acts of academic dishonesty shall be cause for disciplinary action.~~

~~(c) Any student who aids or abets the accomplishment of an act of academic dishonesty, as described in subparagraph (b) above, shall be subject to disciplinary action.~~

~~(d) This section shall not be construed as preventing an instructor from taking immediate disciplinary action as provided herein when the instructor is required to act upon such breach of academic dishonesty in order to preserve order and prevent disruptive conduct in the classroom. This section shall also not be construed as preventing an instructor from adjusting the student's grade on a particular project, paper, test, or class grade for academic dishonesty.~~

~~(2) Classroom conduct.~~) Instructors have the authority to take whatever summary actions may be necessary to maintain order and proper conduct in the classroom and to maintain the effective cooperation of the class in fulfilling the objectives of the course.

~~((a))~~ (1) Any student who ~~(, by any act of misconduct,)~~ substantially disrupts any college class by engaging in conduct that renders it difficult or impossible to maintain the decorum of the faculty member's class shall be subject to disciplinary action.

~~((b))~~ (2) The instructor of each course offered by the college shall be authorized to take such steps as may be necessary to preserve order and to maintain the effective cooperation of the class in fulfilling the objectives of the course; provided a student shall have the right to appeal such disciplinary action to the ~~((associate dean of student affairs))~~ vice-president for student services.

#### NEW SECTION

**WAC 132B-120-085 Groups and organizations.** (1) Recognized student groups and organizations may be charged with violations of this code. Such a group or organization and its officers may be held collectively or individually responsible when violations of this code by those associated with the group or organization have received the tacit or overt consent or encouragement of the organization, its leaders, officers or spokespersons.

(2) Sanctions for group or organization misconduct may include revocation of the use of college facilities for a specified period of time or denial of recognition or funds as well as other appropriate sanctions permitted under this code. Sanctions of groups or organizations are subject to the appeal process upon request.

**AMENDATORY SECTION** (Amending WSR 91-11-102, filed 5/22/91, effective 6/22/91)

**WAC 132B-120-120 Disciplinary process.** (1) Any infractions of college rules and regulations may be referred by any ~~(college faculty or staff member to the dean of student services or in his absence the vice president for instruction. That official shall then follow the appropriate procedures for any disciplinary action which he deems necessary relative to the alleged misconduct. In addition, a student may appeal disciplinary action taken by an instructor or faculty member pursuant to the provisions in WAC 132B-120-180.~~

~~(2) The disciplinary official may take whatever action he deems appropriate within the framework of these regulations. If the student concludes that any sanctions imposed upon him are inappropriate, he may appeal to the student/faculty disciplinary committee.~~

~~(3)) student or employee to the vice-president for student services or in his/her absence the vice-president for instruction or designee. Sexual harassment complaints or concerns may be directed to the vice-president for student services or the equity resource director. The vice-president for student services or, in his/her absence, the vice-president for instruction of the college is responsible for initiating the disciplinary proceedings for infractions of rules and regulations as outlined in the procedures. The vice-president for student services or, in his/her absence, the vice-president for instruction, may delegate this responsibility to members of their staff and they may also establish committees or other hearing bodies to advise or act for them in disciplinary matters. That official shall then follow the appropriate procedures for any disciplinary action which is deemed necessary relative to the alleged misconduct.~~

~~(2) Any student accused of violating any provision of the rules of conduct shall be called for an initial meeting and in order that any informality in disciplinary proceedings not mislead the student as to the seriousness of the matter under consideration, will be informed of what provision(s) of the rules of conduct he/she is charged with violating, and what appears to be the range of penalties, if any, which might result from disciplinary proceedings.~~

~~(3) After considering the evidence in a case and interviewing the student or students involved, the vice-president for student services or, in his/her absence, the vice-president for instruction or designee may take any of the following actions:~~

~~(a) Terminate the proceeding, exonerating the student or students.~~

~~(b) Dismiss the case after providing whatever counseling and advice may be appropriate.~~

~~(c) Impose disciplinary sanctions directly, subject to the student's right of appeal as described in this procedure. The~~

~~student shall be notified in writing of the action taken except that disciplinary warnings may be given verbally.~~

~~(d) Refer the matter to the student/faculty disciplinary committee for appropriate action. The student shall be notified in writing that the matter has been referred to the committee.~~

~~(4) If a referral or an appeal is made to the student/faculty disciplinary committee, the committee shall hold a hearing, reach conclusions and may impose sanctions. (If the student concludes that the action of the disciplinary committee is inappropriate, he may appeal the matter to the president of the college.~~

~~(4) The president of the college, after reviewing the case, may reverse, sustain or modify any sanctions which may have been imposed by the student/faculty disciplinary committee. The decision of the president is final.)~~

**AMENDATORY SECTION** (Amending Order 80-1, Resolution No. 10-80, filed 8/6/80)

**WAC 132B-120-130 ((Disciplinary terms)) Sanctions.** (1) ~~((As used in this document the following terms shall mean:))~~ Sanctions for violations of college regulations or conduct may be imposed independent of any action taken by civil authorities. In the case of minors, misconduct may be referred to parents or legal guardians.

(2) More than one sanction may be recommended. Sanctions may include, but are not limited to:

(a) Disciplinary warning((:)). Constitutes oral notice of violation of college rules and regulations.

(b) Reprimand((:)). Formal action after censuring a student for violation of college rules or regulations for failure to satisfy the college's expectations regarding conduct. Reprimands are made in writing to the student by the disciplinary official. A reprimand indicates to the student that continuation or repetition of the specific conduct involved or other misconduct will result in one or more serious disciplinary actions described below.

(c) Disciplinary probation((:)). Formal action placing conditions upon the student's continued attendance ((because of his violation of college rules and regulations or failure to satisfy the college's expectations regarding conduct. The disciplinary official placing the student on probation will specify, in writing, the period of probation and the conditions, such as limiting the student's participation in extra-curricular activities)). Notice will be made in writing, specifying the period of probation and the conditions of the probation. Disciplinary probation warns the student that any further misconduct will automatically raise the question of dismissal from the college. Disciplinary probation may be for a specified term or for an indefinite period which may extend to graduation or other termination of the student's enrollment in the college.

(d) Restitution. Compensation for loss, damage, or injury to the appropriate party in the form of service, money, or material replacement.

(e) Discretionary sanctions. These may include but are not limited to: Work assignments, service to college or community, class/workshop attendance or other discretionary

assignments such as educational interventions intended as learning experiences.

(f) Loss of privileges. Loss of specific college privileges for a specified period of time. These may include but are not limited to student activities, athletic events, drama or music performances, or club participation.

(g) No contact. Restriction from entering specific college areas and/or all forms of contact with certain person(s).

(h) Summary suspension((:)). Temporary dismissal from the college ((and temporary termination of a student's status)) for a period of time ((not to exceed ten days which occurs prior to invocation of the formal hearing procedures specified in this code due to a necessity to take immediate disciplinary action, where a student presents an imminent danger to the college property, or to himself or other students or persons in college facilities on or off campus, or to the educational process of the college.

(e)) during which an investigation and/or formal disciplinary procedures are pending. Summary suspension is predicated upon a reasonable belief that the student presents an imminent danger to college property, to other students, to employees of the college or is of significant disruption to the educational process.

(i) During the period of summary suspension, the student may enter the college premises only to meet with the vice-president for student services or a designee; to deliver a written appeal; to attend a hearing; or otherwise with special permission from the vice-president for student services.

(ii) At the end of the summary suspension period, the student shall be reinstated to prior status subject to any other disciplinary sanctions that may have been imposed.

(j) Suspension((:)). Temporary dismissal from the college and ((temporary)) termination of student status ((for violation of college rules and regulations or for failure to meet college standards of conduct)).

(((:)) (j) Expulsion((: Dismissal from the college and)), Permanent termination of student status ((for violation of college rules and regulations or for failure to meet the college standards of conduct for an indefinite period of time or permanently)) from the college.

(((:)) (3) Refund of fees for the quarter in which disciplinary action is taken shall be in accord with the college's refund policy. Fees paid in advance for subsequent quarters will be refunded.

(((:)) (4) A student suspended on the basis of conduct which disrupted the orderly operation of the campus or any facility of the district, may be denied access to all or any part of the campus or other facility.

## NEW SECTION

**WAC 132B-120-135 Summary suspension procedures.** (1) If the vice-president for student services deems summary suspension appropriate, she/he shall give the student oral or written notice of the reasons for summary suspension, duration of the summary suspension, and of any possible additional disciplinary or corrective action that may be taken. If oral notice is given, written notice shall follow within two calendar days. In addition, the vice-president for

student services shall set a date for informal hearing of the summary suspension as soon as practicable.

(2) The presiding officer for the informal hearing shall be an administrator designated by the president other than the administrator who initially imposed the summary suspension (normally, the vice-president for student services) and will be accompanied by the president of the associated students of Grays Harbor College or designee. The student shall be given the opportunity to present written and/or oral evidence. The issue before the presiding officer shall be whether reasonable cause exists to support and to continue the summary suspension.

(3) The presiding officer shall issue a written decision within two days of the informal hearing.

(4) The student may request a de novo review of the informal hearing decision before the student/faculty disciplinary committee. Either party may request the review to be consolidated with any other disciplinary proceeding arising from the same matter.

(5) Nothing herein shall prevent faculty members from taking summary action as may be reasonably necessary to maintain order in the classroom and/or prevent substantial disruption to the educational process. Such summary action in the form of removal from the classroom may not exceed two days per episode. Any such summary action may be appealed to the vice-president for student services for an informal hearing.

**AMENDATORY SECTION** (Amending WSR 91-11-102, filed 5/22/91, effective 6/22/91)

**WAC 132B-120-170 Student/faculty disciplinary committee.** (1) The student/faculty disciplinary committee, convened for that purpose, will hear, de novo, and make recommendations on all disciplinary cases referred to by the appropriate authority or appeal to it by student(s). The committee will be composed of the following persons:

(a) A member appointed by the president of the college who shall serve as chair;

(b) Two members of the faculty, appointed by the president of the faculty association;

(c) Two representatives from the student council, appointed by the student body president.

(2) None of the above-named persons shall sit on any case in which he/she has a complaint or witness, in which he/she has a direct or personal interest, or in which he/she has acted previously in an advisory or official capacity. Decisions in this regard, including the selection of alternates, shall be made by the disciplinary committee as a whole. ~~((The disciplinary committee chairman will be elected by the members of the disciplinary committee.~~

~~(3) The committee may decide that the student involved:~~

~~(a) Be given a disciplinary warning;~~

~~(b) Be given a reprimand;~~

~~(c) Be placed on disciplinary probation;~~

~~(d) Be given a suspension;~~

~~(e) Be expelled;~~

~~(f) Be exonerated with all proceedings terminated and with no sanctions imposed;~~



~~(g) Be disqualified from participation in any school-sponsored athletic events or activities.)~~

AMENDATORY SECTION (Amending WSR 91-11-102, filed 5/22/91, effective 6/22/91)

WAC 132B-120-180 ((Procedural guidelines)) Student/faculty disciplinary committee procedures. (1) The student ~~(, if he wishes to appeal,)~~ has a right to a fair and impartial hearing before the committee on any charge of misconduct ~~((. His failure to cooperate with the hearing procedures, however, shall not preclude the committee from making its findings of fact, reaching conclusions and imposing sanctions. Failure of the student to cooperate may be taken into consideration by the committee in recommending penalties.~~

~~(2) The student shall be given notice of the date, time and place of the hearing, the charges against him, a list of witnesses who will appear, and a description of any documentary or other physical evidence that will be presented at the hearing. This notice shall be given to the student in writing and shall be provided in sufficient time to permit him to prepare a defense)) resulting in disciplinary action other than warning or reprimand.~~

~~(2) The committee chair shall establish general rules of procedures for conducting hearings. A majority of the committee shall set the time, place and available seating capacity for a hearing. All proceedings of the committee will be conducted with reasonable dispatch and terminated as soon as fairness to all parties involved permits.~~

~~(3) The committee shall issue written notice of the date, time and place of the hearing, and the charges against the student consistent with RCW 34.05.434. This notice of hearing shall be provided no later than seven days prior to the date of the hearing. The notice may be amended at any time prior to the hearing, but if such amendment is prejudicial to the student's case, the hearing shall be rescheduled to a later date if so requested in writing by the student.~~

~~((3) The student or his representative shall be entitled to hear and examine the evidence against him and be informed of the identity of its sources; he shall be entitled to present evidence in his own behalf and to question witnesses testifying against him as to factual matters. The student shall have all authority which is possessed by the college to obtain information or to request the presence of witnesses or the production of other evidence relevant to the issues at the hearing.~~

~~(4) Only those matters presented at the hearing, in the presence of the student involved, will be considered in determining whether he is guilty of the misconduct charged but the student's past record of conduct may be taken into account in formulating the committee's recommendation for disciplinary action.~~

~~(5) The student may be represented by counsel and/or accompanied by an advisor of his choice.~~

~~(6) Hearings conducted by the committee may be held in closed session at the discretion of the committee, the only exception being when the student involved invites particular persons or requests an open hearing. If at any time during the conduct of the hearing invited guests are disruptive of the~~

~~proceedings, the chairman of the committee may exclude such persons from the hearing room.~~

~~(7) A majority of the committee shall set the time, place and available seating capacity for a hearing.~~

~~(8) All proceedings of the committee will be conducted with reasonable dispatch and terminated as soon as fairness to all parties involved permits.~~

~~(9) An adequate summary of the proceedings will be kept. As [At] a minimum, such summary would include a tape recording of testimony. Such record will be available for inspection and copying in the office of student services during regular business hours.~~

~~(10) The student will be provided with a copy of the findings of fact and with the conclusions of the committee. He will also be advised of his right to present, within ten calendar days, a written statement of appeal to the president of the college before action is taken on the decision of the committee. In the case of an unmarried student under eighteen years of age, written notice of any action involving dismissal or disciplinary probation will be sent to the parents or guardian of the student.~~

~~(11) The committee chairman shall establish general rules of procedures for conducting hearings consistent with the foregoing procedural guidelines.~~

~~(12) The president of the college or his designated representative, after reviewing the case, including the report of the committee and any statement filed by the student, shall either indicate his approval of the conclusions of the committee by sustaining its decision, shall give directions as to what other disciplinary action shall be taken by modifying its decision, or shall nullify previous sanctions imposed by reversing its decision. He shall then notify the official who initiated the proceedings, the student and the committee chairperson.) (4) The student may be represented by counsel and/or accompanied by an advisor of his/her choice, who is not, however, an employee of the college. If the student elects to choose a duly licensed attorney admitted to practice in the state of Washington as counsel, notice thereof must be tendered by the student to the vice-president for student services at least five calendar days prior to the hearing.~~

~~(5) The student or his/her representative shall be entitled to hear and examine the evidence against him/her and be informed of the identity of its sources; the student shall be entitled to present evidence in his/her own behalf and to question witnesses testifying against him/her as to factual matters. The committee shall request the administration to provide the student a list of witnesses who will appear, and a description of any documentary or other physical evidence that will be presented at the hearing. The student shall have all authority which is possessed by the college to obtain information or to request the presence of witnesses or the production of other evidence relevant to the issues at the hearing.~~

~~(6) Only those matters presented at the hearing, in the presence of the student involved, will be considered in determining whether the student is guilty of the misconduct charged but the student's past record of conduct may be taken into account in formulating the committee's recommendation for disciplinary action.~~

~~(7) Hearings conducted by the committee may be held in closed session at the discretion of the committee, the only~~

exception being when the student involved invites particular persons or requests an open hearing. If at any time during the conduct of the hearing, invited guests are disruptive of the proceedings, the chair of the committee may exclude such persons from the hearing room.

(8) Failure on the part of the student(s) to appear or cooperate in the proceedings may result in default in accordance with RCW 34.05.440. However, it may not preclude the committee from making its findings of fact, reaching conclusions and imposing sanctions. Failure of the student to cooperate may be taken into consideration by the committee in recommending penalties.

(9) The committee may decide to uphold or modify sanctions in accordance with WAC 132B-120-130.

(10) An adequate summary of the proceedings will be kept. At a minimum, such summary would include a tape recording of testimony. Such record will be available for inspection and copying in the office of student services during regular business hours. The student will be provided with a copy of the findings of fact and with the conclusions of the committee.

(11) The student will also be advised of his/her right to present within seven calendar days, a written statement of appeal to the president of the college before action is taken on the decision of the committee. In the case of a student under eighteen years of age, written notice of any action involving dismissal or disciplinary probation may be sent to the parents or guardian of the student.

(12) If the student concludes that the action of the disciplinary committee is inappropriate, the student may appeal the matter to the president of the college. The president of the college or his/her designated representative, after reviewing the case, including the report of the committee and any statements filed by the student, shall either indicate his/her approval of the conclusions of the committee by sustaining its decision, shall give directions as to what other disciplinary action shall be taken by modifying its decision or shall nullify previous sanctions imposed by reversing its decision. The president shall then notify the official who initiated the proceedings, the student and the committee chair. The decision of the president is final.

AMENDATORY SECTION (Amending WSR 91-11-102, filed 5/22/91, effective 6/22/91)

**WAC 132B-120-190 Appeals.** Any disciplinary action other than warning or reprimand may be appealed ((as described below)). ((Notice of an appeal by a student shall)) All appeals must be made in writing and addressed to the ((dean of)) vice-president for student services within ((ten)) seven calendar days of the college's giving of the notice of the disciplinary action.

(1) Disciplinary action by ((a faculty member or other college staff member)) any college employee may be appealed to, and shall be reviewed by, the ((dean of)) vice-president for student services, or in his/her absence, the vice-president for instruction or designee.

(2) Disciplinary action ((by the appropriate disciplinary official)) may be appealed to, and shall be reviewed by, the student/faculty disciplinary committee.

(3) Disciplinary action by the student/faculty disciplinary committee may be appealed to ((;)) and shall be reviewed by ((;)) the college president or his/her designee.

((4) Disciplinary action by the president shall either indicate his approval of the conclusions by sustaining the decision or shall give directions as to what other disciplinary action shall be taken by modifying the decision, or shall nullify previous sanctions imposed by reversing its decision. All appeals to the president shall be final.))

AMENDATORY SECTION (Amending Order 80-1, Resolution No. 10-80, filed 8/6/80)

**WAC 132B-120-200 Reporting, recording and maintaining records.** Records of all disciplinary cases shall be kept by the ((disciplinary official taking or initiating the action)) office of the vice-president for student services. Except in proceedings where the student is exonerated, all documentary or other physical evidence produced or considered in disciplinary proceedings and all recorded testimony shall be preserved ((;)); insofar as possible, for not more than ((five)) six years. No other records of proceedings wherein the student is exonerated, other than the fact of exoneration, shall be maintained in the student's file or other college repository after the date of the student's graduation or not more than ((five)) six years.

NEW SECTION

**WAC 132B-120-210 Hazing sanctions.** Any student found to have violated RCW 28B.10.900 et seq. related to hazing, by virtue of a criminal conviction or by final decision of the college president or designee, shall, in lieu of or in addition to any other disciplinary action which may be imposed under this chapter, forfeit any entitlement to student-funded grants, scholarships, or awards of a period of time determined by the college.

In addition, any organization or association found to have knowingly permitted hazing to be conducted by its members or by others subject to its direction or control shall be deprived of any official recognition or approval granted by the college.

NEW SECTION

**WAC 132B-120-220 Student grievance procedure.** The purpose of these procedures is to provide guidelines which enable a student to express and resolve misunderstandings, complaints, or grievances in a fair and equitable manner. Students have the right to receive clear information and fair application of college policies, standards, rules and requirements and are responsible for complying with them in their relationships with college personnel. This grievance procedure emphasizes an informal resolution which promotes constructive dialogue and understanding.

(1) Student complaints. A complaint is any expression of dissatisfaction with the performance of a college employee, policy or procedure. Students who have a complaint shall use the following procedure:

Step 1. If the complaint is about the action of a college employee, the college employee and student shall make a good faith effort to resolve the grievance on a one-to-one basis. If the complaint is about a policy or procedure, it should be discussed with the employee most closely responsible for the policy or procedure. Both parties should openly discuss the concern, attempt to understand the other's perspective, explore alternatives and attempt to arrive at a satisfactory resolution.

Step 2. If the student determines that the complaint cannot be resolved to his/her satisfaction with the employee concerned, he/she should contact one of the following people:

- (a) The vice-president for instruction for complaints regarding an instructional employee, policy or procedure; or
- (b) The vice-president for student services regarding any other employee, policy or procedure.

The student may be referred to other appropriate personnel for resolution.

Step 3. The vice-president will discuss with the student his/her concerns including options available to resolve the concern. The student may be requested to indicate in writing the nature of the grievance specifying as accurately as possible all details. Following discussion and the gathering of any further information as needed, the vice-president, within twenty working days, will issue a decision to resolve the complaint and report his/her findings to all involved parties. If an investigation requires more time, the deadline may be extended to a mutually agreed future date.

Step 4. If the meeting with the vice-president does not resolve the complaint to the student's satisfaction, he/she may appeal to the president of the college. The president may amend, modify, reverse or accept the recommendation of the vice-president. The decision of the president shall be final.

(2) Records. The vice-president shall keep all written statements or transcripts associated with the complaint as part of the files. The files will be destroyed after six years from the initiation of the complaint.

(3) Time limits on filing a complaint. The student must file a complaint within one academic quarter of the event which caused the grievance to be filed. The vice-president may suspend this rule under exceptional circumstances such as extended illness, or leave of a party to the complaint. No complaints will be considered after two academic quarters of the occurrence of the source of the grievance. When either party to the complaint is no longer present at the college and does not expect to return, the vice-president will give the absent party reasonable opportunity to reply to the complaint before making a decision.

(4) Grievances excluded. The student grievance procedure described in this section is not intended to cover complaints of discrimination or sexual harassment. The college has separate, specific procedures for such complaints. See the vice-president for student services or the equity resource director for information on those specific procedures.

A student may not use the provisions of these sections as the basis for filing a grievance based on the outcome of summary or other disciplinary proceedings described in earlier sections of this student rights and responsibilities code or for resolution of specific categories of student complaints where other procedures are required.

Federal and state laws, rules and regulations, in addition to policies, regulations and procedures adopted by the state board for community college education or the board of trustees of Community College District No. 2 shall not be grievable matters.

## WSR 98-09-016

### PERMANENT RULES

#### INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter R 98-03—Filed April 6, 1998, 4:55 p.m.]

Date of Adoption: March 9, 1998.

Purpose: To update the risk based surplus formula and create new levels for regulatory action.

Citation of Existing Rules Affected by this Order: Repealing WAC 284-36A-030; and amending WAC 284-36A-010, 284-36A-020, and 284-36A-025.

Statutory Authority for Adoption: RCW 48.02.060, 48.36A.100, 48.36A.290.

Adopted under notice filed as WSR 98-04-085 on February 4, 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 6, Amended 3, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 6, Amended 3, 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 6, Amended 3, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

April 6, 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))~~ (7) "RBC" means risk-based capital.

~~((5))~~ (8) "RBS" means risk-based surplus.

~~((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.

AMENDATORY SECTION (Amending WSR 96-22-64 (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.~~

(Insert current year) Insurance Management Standard

Asset Risk (C-1) - BONDS

Bond Rating Category	Annual Statement Source*	(1) Statement Value	Factor	(2) Risk-Based Surplus
Exempt Obligations	P 46, C 1, L 1 + L 17	NAIC Diskette	X 0.000	Calculation Field (1)
Asset Class 1	P 46, C 1, L 2 + L 18	NAIC Diskette	X 0.003	Calculation Field (2)
Asset Class 2	P 46, C 1, L 3 + L 19	NAIC Diskette	X 0.010	Calculation Field (3)
Asset Class 3	P 46, C 1, L 4 + L 20	NAIC Diskette	X 0.040	Calculation Field (4)
Asset Class 4	P 46, C 1, L 5 + L 21	NAIC Diskette	X 0.090	Calculation Field (5)
Asset Class 5	P 46, C 1, L 6 + L 22	NAIC Diskette	X 0.200	Calculation Field (6)
Asset Class 6	P 46, C 1, L 7 + L 23	NAIC Diskette	X 0.300	Calculation Field (7)
Total Bonds Before Size Factor		Calculation Field		Calculation Field (8)
Bonds in Asset Class 1 backed at some level by a U.S. gov. agency Sch D, Part 1A, Sec 2, C 7, L 1.5		NAIC Diskette	X 0.003	Calculation Field (9)
Bonds subject to size factor = L (8) - L (9)		Calculation Field		Calculation Field (10)
Size Factor (see below)				Calculation Field (11)
RBS for Bonds Subject to Size Factor After Size Factor Applied = L (10), C (2) x L (11)				Calculation Field (12)
RBS for Total Bonds = L (9) + L (12)				Calculation Field (13)

L (8) C (1) above should agree to the total bonds reported on Exh 13, L 1, C 4 plus short term bonds on Sch DA, Part 2, L 10, C 2.

Size Factor

TOTAL NUMBER OF BOND ISSUERS:

The size factor was developed as a step factor (as in a tax table) so the overall factor decreases as the portfolio size increases. Bonds should be aggregated by issuer using the first six digits of the CUSIP number. U.S. Government bonds which receive a zero AVR factor and bonds reported on Line (9) are not counted in determining the size factor. The RBS for these bonds will not be included in the base to which the size factor is applied. If this field is left blank, it will be assumed that there are less than 50 issuers and will default to the maximum bond size factor adjustment (2.5).

Source	Number of Issuers	Weighted Issuers
First 50	Calculation Field X 2.5 =	Calculation Field
Next 50	Calculation Field X 1.3 =	Calculation Field
Next 300	Calculation Field X 1.0 =	Calculation Field
Over 400	Calculation Field X 0.9 =	Calculation Field
Total	Calculation Field	Calculation Field

Size Factor = Total Weighted Issuers/Total Number of Issuers

Example: based on 450 issuers

# of issuers	Weighted Issuers
50 X 2.5 =	125
50 X 1.3 =	65
300 X 1.0 =	300
50 X 0.9 =	45
<u>450</u>	<u>535</u>
Size factor =	535/450 = 1.19

\*Sources are referenced as P - page, Exh - Exhibit, Sch - Schedule, Sec - Section, C - Column, L - Line

Page and line numbers refer to the 1995 blank. Corresponding entries from blanks from later years shall be substituted as appropriate.

Asset Risk (C-1) - MORTGAGES

Annual Statement Source*		(1) Statement Value	Factor	MEA Factor**	(2) Risk-Based Surplus
<b>Farm Mortgages</b> Sch B, Part 2:					
In good standing	Sec 1A, L 0399999, C 5	NAIC diskette	X 0.030	X	From Line (44) = Calculation Field (14)
90 days overdue	Sec 2, L 0399999, C 5	NAIC diskette	X 0.060	X	From Line (45) = Calculation Field (15)
<b>Insured or Guaranteed Mortgages</b> Sch B, Part 2:					
In good standing	Sec 1A, L 0499999 + 0899999, C 5 + Sec 1B, L 0199999, C 5	NAIC diskette	X 0.001	X	From Line (44) = Calculation Field (16)
90 days overdue	Sec 2, L 0499999 + 0899999, C 5	NAIC diskette	X 0.002	X	From Line (45) = Calculation Field (17)
<b>Residential Mortgages</b> (Other than insured or guaranteed) Sch B, Part 2:					
In good standing	Sec 1A, L 0599999 + 0699999, C 5	NAIC diskette	X 0.005	X	From Line (44) = Calculation Field (18)
90 days overdue	Sec 2, L 0599999 + 0699999, C 5	NAIC diskette	X 0.010	X	From Line (45) = Calculation Field (19)
<b>Commercial Mortgages</b> (Other than insured or guaranteed) Sch B, Part 2:					
In good standing	Sec 1A, L 0999999 + 1099999, C 5 + Sec 1B, L 0299999 + 0399999, C 5	NAIC diskette	X 0.030	X	From Line (44) = Calculation Field (20)
90 days overdue )	Sec 2, L 0999999 + 1099999, C 5	NAIC diskette	X 0.060	X	From Line (45) = Calculation Field (21)
<b>Mortgages in foreclosures</b>	Sch B, Part 2, Sec 3, L 9999999, C 5	NAIC diskette	X 0.200	X	1 = Calculation Field (22)
<b>Total Mortgages after Experience Adjustment</b>		Calculated Field			Calculation Field (23)
<b>Due and unpaid taxes on overdue mortgages and mortgages in foreclosure</b>					
	Sch B, Part 2, Sec 2, L 9999999, C 9 + Sec 3, L 9999999, C 9	NAIC diskette	X 1.000	=	Calculation Field (24)
<b>Total Mortgages (including due and unpaid taxes)</b>		Calculated Field			Calculation Field (25)

L (25), C(1) total should agree to annual statement P 2, L 3, C1 + Sch B, Part 2, Sec 2, L 9999999, C 9 + Sch B, Part 2, Sec 3, L 9999999, C 9

\*\* See page 3 to calculate the MEA Factor.

\*Sources are referenced as P - page, Exh - Exhibit, Sch - Schedule, Sec - Section, C - Column, L - Line

Page and line numbers refer to the 1995 blank. Corresponding entries from blanks from later years shall be substituted as appropriate.

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Asset Risk (C-1) - MORTGAGE EXPERIENCE ADJUSTMENT (MEA)

If your society has less than 5 years of mortgage experience, your mortgage experience adjustment factor is 1.00. Enter 0 for under 5 years experience, then continue to next section. If your society has mortgage experience of 5 years or more, you must calculate your mortgage experience adjustment factor. Enter 1 for over 5 years experience and complete this section to calculate your MEA. (0=under 5 years experience, 1 = over 5 years experience)

	Annual Statement Source*	(1) Statement Value	(2)
Delinquent amount 1st Prior Year (Insert current year minus 1)			
Restructured mortgages	Sch B, Part 2, Sec 1B, L 9999999, C 5	<input type="text"/>	(26)
Mortgages 90 days overdue	Sch B, Part 2, Sec 2, L 9999999, C 5	<input type="text"/>	(26.1)
Mortgages in foreclosure	Sch B, Part 2, Sec 3, L 9999999, C 5	<input type="text"/>	(27)
Mortgages foreclosed	Sch B, Part 3, L 9999999, C 4	<input type="text"/>	(28)
Total Delinquent = Sum of Lines (26) - (28)		Calculation Field	(29)
Total amount 1st Prior Year (Insert current year minus 1)			
Total Mortgages	P 2, L 3, C 1	<input type="text"/>	(30)
Mortgages foreclosed	Sch B, Part 3, L 9999999, C 4	<input type="text"/>	(31)
Total Amount = Line (30) + Line (31)		Calculation Field	(32)
1st Prior Year Delinquency Ratio = Total delinquent/Total amount = Line (29)/Line (32)			Calculation Field (33)
Delinquent amount 2nd Prior Year (Insert current year minus 2)			
Restructured mortgages	Sch B, Part 2, Sec 1B, L 9999999, C 5	<input type="text"/>	(34)
Mortgages 90 days overdue	Sch B, Part 2, Sec 2, L 9999999, C 5	<input type="text"/>	(34.1)
Mortgages in foreclosure	Sch B, Part 2, Sec 3, L 9999999, C 5	<input type="text"/>	(35)
Mortgages foreclosed	Sch B, Part 3, L 9999999, C 4	<input type="text"/>	(36)
Total Delinquent = Sum of Lines (34) - (36)		Calculation Field	(37)
Total amount 2nd Prior Year (Insert current year minus 2)			
Total Mortgages	P 2, L 3, C 1	<input type="text"/>	(38)
Mortgages foreclosed	Sch B, Part 3, L 9999999, C 4	<input type="text"/>	(39)
Total Amount = Line (38) + Line (39)		Calculation Field	(40)
2nd Prior Year Delinquency Ratio = Total delinquent/Total amount = Line (37)/Line (40)			Calculation Field (41)
Society Delinquency Rate = (1st prior year + 2nd prior year delinquency ratio)/2 = (Line (33) + Line (41))/2			Calculation Field (42)
Industry Composite Rate (supplied by NAIC)			0.077 (43)
Mortgage Experience Adjustment (MEA) Factor for mortgages in good standing (not more than 3.0 nor less than 0.5) = Society Delinquency Rate/Industry Composite Rate = Line (42)/Line (43)			Calculation/Decision (44)
Mortgage Experience Adjustment (MEA) Factor for overdue mortgages (same as Line (44), but not more than 2.5 nor less than 1.0)			Calculation/Decision (45)

\*Sources are referenced as P - page, Exh - Exhibit, Sch - Schedule, Sec - Section, C - Column, L - Line Page and line numbers refer to the 1995 blank. Corresponding entries from blanks from later years shall be substituted as appropriate.



**Asset Risk (C-1) PREFERRED AND COMMON STOCK**

Annual Statement Source*		(1) Statement Value	Factor	(2) Risk-Based Surplus
<b>Unaffiliated Preferred Stock</b>				
Asset Class 1	P 46, C 1, L 10 (unaffil only)		X 0.023	Calculation Field (46)
Asset Class 2	P 46, C 1, L 11 (unaffil only)		X 0.030	Calculation Field (47)
Asset Class 3	P 46, C 1, L 12 (unaffil only)		X 0.060	Calculation Field (48)
Asset Class 4	P 46, C 1, L 13 (unaffil only)		X 0.110	Calculation Field (49)
Asset Class 5	P 46, C 1, L 14 (unaffil only)		X 0.220	Calculation Field (50)
Asset Class 6	P 46, C 1, L 15 (unaffil only)		X 0.300	Calculation Field (51)
<b>Total Unaffiliated Preferred Stock = Sum of Lines (46) - (51)</b>		Calculation Field		Calculation Field (52)
<i>C(1) should agree to Annual Statement P 2, L 2.1, C 1 less Sch D, Part 2, Sec 1, L 019999, C 6</i>				
<b>Unaffiliated Common Stock</b>				
Non-Government Money Market Funds	Society records		X 0.003	Calculation Field (54)
Other	Society records		X 0.300	Calculation Field (55)
<b>Total Unaffiliated Common Stock</b>		Line (54) + (55)		Calculation Field (56)
<i>C(1) should agree to Sch D Summary, P 43, C 3, L 54 - L 53</i>				
<b>Affiliated Common and Preferred Stock</b>				
RBS for insurance and investment subsidiaries should be calculated using the NAIC RBC worksheets, then multiplied by the % ownership.				
Affiliated US Life insurers	Sch D, Part 2, Sec 1, C 6 & Sec 2, C 5, approp. line(s)		X (Affil RBC X % Owned) <sup>1</sup>	Calculation Field (57)
Affiliated US P/C insurers	Sch D, Part 2, Sec 1, C 6 & Sec 2, C 5, approp. line(s)		X (Affil. RBC X % Owned) <sup>#</sup>	Calculation Field (58)
Affiliated investment subs	Sch D, Part 2, Sec 1, C 6 & Sec 2, C 5, approp. line(s)		X (Affil. RBC X % Owned) <sup>+</sup>	Calculation Field (59)
Canadian & alien affil Insurers	Sch D, Part 2, Sec 1, C 6 & Sec 2, C 5, approp. line(s)		X 1.000	Calculation Field (60)
Other affiliates	Sch D, Part 2, Sec 1, C 6 & Sec 2, C 5, approp. line(s)		X 0.300	Calculation Field (61.1)
	without ins subs		X	Calculation Field (61.2)
	with only ins subs		X (Affil. RBC X % Owned) <sup>†</sup>	Calculation Field (61.3)
	with ins & other subs or bus		X **	Calculation Field (61.3)
<b>Total Aff. Common &amp; Pref. Stock = Sum of Lines (57) - (61.3)</b>		Calculation Field		Calculation Field (62)
<i>C(1) should agree to Sch D Summary, P 43, C 3, L 39 + L 53</i>				
<b>Total Preferred &amp; Common Stock = Lines (52) + (56) + (62)</b>		Calculation Field		Calculation Field (63)
<i>C(1) should agree to Annual Statement P 2, L 2.1 + 2.2, C 1</i>				

<sup>#</sup> Prior to adoption of an NAIC RBC formula for P/C Insurers, use 50% of the P/C subsidiary's capital and surplus.  
<sup>+</sup> RBC defined as "Company Action Level RBC" for Life Insurers.  
<sup>\*\*</sup> Co action level RBC X% owned of ins sub + .30x(carrying value of other affil less carrying value of ins subs).

\*Sources are referenced as P - page, Exh - Exhibit, Sch - Schedule, Sec - Section, C - Column, L - Line  
 Page and line numbers refer to the 1995 blank. Corresponding entries from blanks from later years shall be substituted as appropriate.

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**Asset Risk (C-1) - REAL ESTATE AND OTHER LONG-TERM ASSETS**

	Annual Statement Source*	(1) Statement Value		Factor	(2) Risk-Based Surplus	
<b>Real Estate</b>						
Company occupied	P 2, L 4.1, C 1	NAIC diskette	X	0.100	=	Calculation Field (64)
Encumbrances	P 2, L 4.1, inside item	NAIC diskette	X	0.100	=	Calculation Field (65)
Foreclosed	P 2, L 4.2, C 1	NAIC diskette	X	0.150	=	Calculation Field (66)
Encumbrances	P 2, L 4.2, inside item	NAIC diskette	X	0.150	=	Calculation Field (67)
Investment	P 2, L 4.3, C 1	NAIC diskette	X	0.100	=	Calculation Field (68)
Encumbrances	P 2, L 4.3, inside item	NAIC diskette	X	0.100	=	Calculation Field (69)
<b>Total Real Estate</b>		Calculation Field				Calculation Field (70)
<b>Other Long-Term Assets</b>						
Schedule BA assets	P 2, L 9, C 1	NAIC diskette	X	0.200	=	Calculation Field (71)

\*Sources are referenced as P - page, Exh - Exhibit, Sch - Schedule, Sec - Section, C - Column, L - Line  
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**Asset Risk (C-1) - CONCENTRATION FACTOR (see instructions on page 7 and the worksheet on page 7A)**

	(1)	(2)	(3)	(4)	(5)		
	"Name" Exposure (Issuer/Mortgagee)	Type of Asset	Value	Factor	Additional RBS Calculation Field		
1.		1		X		=	Calculation Field (72a)
		2		X		=	Calculation Field (72b)
		TOTAL	Calculation Field				
2.		1		X		=	Calculation Field (73a)
		2		X		=	Calculation Field (73b)
		TOTAL	Calculation Field				
3.		1		X		=	Calculation Field (74a)
		2		X		=	Calculation Field (74b)
		TOTAL	Calculation Field				
4.		1		X		=	Calculation Field (75a)
		2		X		=	Calculation Field (75b)
		TOTAL	Calculation Field				
5.		1		X		=	Calculation Field (76a)
		2		X		=	Calculation Field (76b)
		TOTAL	Calculation Field				
6.		1		X		=	Calculation Field (77a)
		2		X		=	Calculation Field (77b)
		TOTAL	Calculation Field				
7.		1		X		=	Calculation Field (78a)
		2		X		=	Calculation Field (78b)
		TOTAL	Calculation Field				
8.		1		X		=	Calculation Field (79a)
		2		X		=	Calculation Field (79b)
		TOTAL	Calculation Field				
9.		1		X		=	Calculation Field (80a)
		2		X		=	Calculation Field (80b)
		TOTAL	Calculation Field				
10.		1		X		=	Calculation Field (81a)
		2		X		=	Calculation Field (81b)
		TOTAL	Calculation Field				
	<b>GRAND TOTAL</b>		Calculation Field				Calculation Field (82)

\*Sources are referenced as P - page, Exh - Exhibit, Sch - Schedule, Sec - Section, C - Column, L - Line  
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**Purpose**

The purpose of the Concentration Factor is to reflect the additional risk of high concentration in single exposures (represented by an issuer of a security or a holder of a mortgage, etc.). The Concentration Factor basically doubles the risk-based surplus factor (with a maximum of 30%) of the ten largest asset exposures excluding various low risk categories or categories which already have a 30% factor. Since the risk-based surplus of these assets has already been counted once in the basic formula, this factor itself only serves to add in the additional risk-based surplus that is required on these assets. The calculation is done on a consolidated basis to keep societies from dividing up assets between parent and subsidiaries to minimize the concentration factor. The Concentration Factor is reduced by amounts already included in the concentration factors of subsidiaries to avoid double counting.

**Specifics**

The ten largest assets should be developed by consolidating the assets of the parent with the assets of the company's insurance and investment subsidiaries, then deducting the concentration factor component on any assets already reflected in the subsidiary's RBS for the concentration factor. The ten largest assets should exclude 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 any other asset categories with RBS factors less than 1% (residential mortgages in good standing, insured or guaranteed mortgages, and cash and short term investments). Aggregations should be done separately for bonds and preferred stock by the first six digits of the CUSIP number, and for mortgages and real estate. Real Estate and mortgages which are part of the same deal should be aggregated. Tenant exposure is not included.

Assets should be aggregated by "issuer name" before determining the ten largest exposures, since there might be more than one asset in the same category. For example, there may be more than one class 2 bond for a particular issuer. The factor in column 4 should correspond to the factor used on previous pages in this report. The additional RBS in column 5 represents the consolidated effect of the concentration factor.

**Instructions**

1. Aggregate assets by issuer. (See worksheet on following page.)
2. Select the ten largest asset exposures.
3. Transfer the worksheet data for the selected ten assets to page 6 of the workbook.

**Example of Worksheet Results**

Issuer	Type of Asset	Value	Factor
1. Oily Motors	Class 2 Bonds	\$10,000,000	0.010
	Class 5 Stock	\$5,000,000	0.220
2. Ma's Soda Pop	Class 5 Bonds	\$3,000,000	0.200
3. Trecky Acres	Farm Mortgages	\$60,000,000	0.030
	Residential Mort - Overdue	\$1,000,000	0.010
4. Quarter Horse Intl	Class 3 Stock	\$50,000,000	0.060
	Real Estate Inv.	\$100,000,000	0.100
5. Zappy Electric	Class 4 Bonds	\$750,000	0.090
6. Fdn Down Under	Commercial Mort.	\$750,000	0.030
	Class 4 Stock	\$850,000	0.110

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**CONCENTRATION FACTOR WORKSHEET**

(Make one copy for each issuer)

(1) Issuer Name	(2) Type of Asset	(3) Value	(4) Factor
	Bonds - Class 2	\$ _____	0.010
	Bonds - Class 3	\$ _____	0.040
	Bonds - Class 4	\$ _____	0.090
	Bonds - Class 5	\$ _____	0.200
	Farm Mortgages - In good standing	\$ _____	0.030
	Farm Mortgages - 90 days overdue	\$ _____	0.060
	Residential Mortgages - 90 days overdue	\$ _____	0.010
	Commercial Mortgages - In good standing	\$ _____	0.030
	Commercial Mortgages - 90 days overdue	\$ _____	0.060
	Mortgages in Foreclosure	\$ _____	0.200
	Unaffiliated Preferred Stock - Class 1	\$ _____	0.023
	Unaffiliated Preferred Stock - Class 2	\$ _____	0.030
	Unaffiliated Preferred Stock - Class 3	\$ _____	0.060
	Unaffiliated Preferred Stock - Class 4	\$ _____	0.110
	Unaffiliated Preferred Stock - Class 5	\$ _____	0.220
	Real Estate - Foreclosed	\$ _____	0.150
	Real Estate - Foreclosed Encumbrances	\$ _____	0.150
	Real Estate - Investment	\$ _____	0.100
	Real Estate - Investment Encumbrances	\$ _____	0.100
	Real Estate - Schedule BA Assets	\$ _____	0.200
	Collateral Loans	\$ _____	0.050
	Write-Ins	\$ _____	0.050
	Total of Issuer	\$ _____	

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**Asset Risk (C-1) - MISCELLANEOUS AND REINSURANCE**

	Annual Statement Source*	(1) Statement Value	(2) Factor		Risk-Based Surplus	
<b>Miscellaneous</b>						
Certificate loans & liens	P 2, C 1, L 5	NAIC diskette	X	0.000	Calculation Field	(83)
Cash	P 2, C 1, L 7 (not less than 0)	NAIC diskette	X	0.003	Calculation Field	(84)
Short term invests	P 2, C 1, L 8 minus Sch DA, Part 2, L 10, C 2	NAIC diskette	X	0.003	Calculation Field	(85)
Collateral loans	P 2, C 1, L 6	NAIC diskette	X	0.050	Calculation Field	(86)
Write-ins	P 2, C 1, L 10 (not less than zero)	NAIC diskette	X	0.050	Calculation Field	(87)
<b>Total Miscellaneous</b>		<u>Calculation Field</u>			<u>Calculation Field</u>	<u>(88)</u>
<b>Reinsurance</b>						
Recov paid losses (Life & A&H)	Sch S, Part 1, C 3, L 0399999	NAIC diskette	X	0.005	Calculation Field	(89)
Recov unpd losses (Life & A&H)	Sch S, Part 1, C 4, L 0399999	NAIC diskette	X	0.005	Calculation Field	(90)
Unearned premiums (A&H)	Sch S, Part 2, C 5, L 9999999	NAIC diskette	X	0.005	Calculation Field	(91)
Other res credit (A&H)	Sch S, Part 2, C 6, L 9999999	NAIC diskette	X	0.005	Calculation Field	(92)
Reserve credit (Life)	Sch S, Part 3A, C 5a, L 9999999	NAIC diskette	X	0.005	Calculation Field	(93)
Reins in unauthorized companies	P 3, C 1, L 22.2	NAIC diskette	X	-0.005	Calculation Field	(94)
Funds held in unauthorized reins	P 3, C 1, L 22.3	NAIC diskette	X	-0.005	Calculation Field	(95)
Funds held in authorized reins	P 3, C 1, L 23, part.		X	-0.005	Calculation Field	(96)
Other reins recov/reserves "reestablished" on Page 3	P 3, C 1, L 23, part.		X	-0.005	Calculation Field	(97)
Complete the following only if society has reinsurers that are 100% owned subsidiaries						
Recov pd losses (Life)	Sch S, Part 1, C 3, L 0199999, part		X	-0.005	Calculation Field	(98)
Recov pd losses (A&H)	Sch S, Part 1, C 3, L 0299999, part		X	-0.005	Calculation Field	(99)
Recov unpd losses (Life)	Sch S, Part 1, C 4, L 0199999, part		X	-0.005	Calculation Field	(100)
Recov unpd losses (A&H)	Sch S, Part 1, C 4, L 0299999, part		X	-0.005	Calculation Field	(101)
Unearned prems (A&H)	Sch S, Part 2, C 5, L 9999999, part		X	-0.005	Calculation Field	(102)
Other res. credit (A&H)	Sch S, Part 2, C 6, L 9999999, part		X	-0.005	Calculation Field	(103)
Reserve Credit (Life)	Sch S, Part 3A, C5a, L9999999, part		X	-0.005	Calculation Field	(104)
<b>Total Reinsurance</b>		<u>Calculation Field</u>			<u>Calculation Field</u>	<u>(105)</u>

\*Sources are referenced as P - page, Exh - Exhibit, Sch - Schedule, Sec - Section, C - Column, L - Line  
Page and line numbers refer to the 1993 blank. Corresponding entries from blanks from later years shall be substituted as appropriate.

**Asset Risk (C-1) - OFF-BALANCE SHEET ITEMS**

		(1)		(2)	
	Annual Statement Source*	Statement Value	Factor	Risk-Based Surplus	
<b>Off-Balance Sheet</b>					
Noncontrolled assets	P 25, General Interrogatories, Question 30	<input type="text"/>	X 0.010	Calculation Field	(106)
Guarantees for affiliates	P 27, Notes to Financial Statements	<input type="text"/>	X 0.010	Calculation Field	(107)
Contingent liabilities	P 27, Notes to Financial Statements	<input type="text"/>	X 0.010	Calculation Field	(108)
<b>Total Off-Balance Sheet</b>		<u>Calculation Field</u>		<u>Calculation Field</u>	(109)

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.

Guarantees for affiliates include guarantees for the benefit of an affiliate which result in a material\*\* contingent exposure of the society's assets to liability.

\*\* The definition of "material" exposure or financial effect is the same as annual statement disclosure requirements.

\*Sources are referenced as P - page, Exh - Exhibit, Sch - Schedule, Sec - Section, C - Column, L - Line.  
Page and line numbers refer to the 1995 blank. Corresponding entries from blanks from later years shall be substituted as appropriate.

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**Insurance Risk (C-2) - HEALTH INSURANCE**

	(1) Statement Value	Factor	(2) Risk-Based Surplus
<b>Medical Insurance Premiums</b>			
Usual & customary major medical & hospital Earned premium (Sch H, L 2, in part)	1st 25 million <input type="text" value="Enter Total Amount"/> over 25 million <input type="text"/>	X 0.250 - X 0.150 -	Calculation Field (110a) Calculation Field (110b)
Medicare suppl, dental, and other limited benefits anticipating rate increases Earned prem (Sch H, L 2, in part)	<input type="text"/>	X 0.120 -	Calculation Field (111)
Hospital indemnity, AD&D, and other limited benefits not anticipating rate increases Earned prem (Sch H, L 2, in part)	<input type="text"/>	X 0.080 -	Calculation Field (112)
<b>Disability Income Premium</b>			
Noncancellable disability income Earned prem (Sch H, L 2, in part)	1st 50 million <input type="text" value="Enter Total Amount"/> over 50 million <input type="text"/>	X 0.350 - X 0.150 -	Calculation Field (113a) Calculation Field (113b)
Other disability income Earned prem (Sch H, L 2, in part)	1st 50 million <input type="text" value="Enter Total Amount"/> over 50 million <input type="text"/>	X 0.250 - X 0.150 -	Calculation Field (114a) Calculation Field (114b)
<b>Total Earned Premium</b>	<u>Calculation Field</u>		(115)
<i>L (115), C (1) should agree to annual statement Schedule H, Line 2, Column 1</i>			
<b>Claim Reserves</b>			
Exhibit 9 individual claim reserves (Exh 9, L 15, C 1)	<u>NAIC diskette</u>	X 0.050 -	Calculation Field (116)
<b>Total Health Insurance</b>			<u>Calculation Field</u> (117)

\*Sources are referenced as P - page, Exh - Exhibit, Sch - Schedule, Sec - Section, C - Column, L - Line  
Page and line numbers refer to the 1993 blank. Corresponding entries from blanks from later years shall be substituted as appropriate.



**Insurance Risk (C-2) - LIFE INSURANCE**

	Annual Statement Source*	(1) Statement Value	(2) Life Risk-Based Surplus
Net Amount at Risk			
Ordinary life inforce	P 24, C 2, L 21 (in \$1 units)#	NAIC diskette	(118)
less ordinary life reserves	less Exh 8, C 4, L 0399999	NAIC diskette	(119)
Total Net Amount at Risk = L(118) - L(119)		Calculation Field	(120)
Total Life Insurance **			Calculation Field (121)

# Since this number is reported in the annual statement in thousands, the program will automatically add three zeros to convert it to \$1 units.

\*\* Formula used to calculate Life Insurance Risk-Based Surplus.

The following RBS factors are applied to Net Amount at Risk accordingly:

- .00150 to the first 500 million
- .00100 to the next 4,500 million
- .00075 to the next 20,000 million
- .00060 over 25,000 million

Example: if Net Amount at Risk = \$22 billion

.00150	x	\$500,000,000	=	750,000
.00100	x	\$4,500,000,000	=	4,500,000
.00075	x	\$17,000,000,000	=	12,750,000
		<b>Life RBS</b>	=	<b>\$18,000,000</b>

\*Sources are referenced as P - page, Exh - Exhibit, Sch - Schedule, Sec - Section, C - Column, L - Line  
 Page and line numbers refer to the 1995 blank. Corresponding entries from blanks from later years shall be substituted as appropriate.

Interest Rate Risk (C-3)

Does your society submit an unqualified actuarial opinion under Section 8 of the revised Standard Valuation Law? 0 = No, 1 = Yes

	Annual Statement Source*	(1) Statement Value	Factor	(2) Risk-Based Surplus	
<b>Low Risk Category (High Surrender Charges)</b>					
Annuity reserve with market value adjustment (net of reinsurance)	Notes to Financial Statements P 27, Item 9, in part	<input type="text"/>	X 0.0075** =	Calculation Field	(122)
Annuity reserve not withdrawable (net of reinsurance)	Notes to Financial Statements P 27, Item 9, in part	<input type="text"/>	X 0.0075** =	Calculation Field	(123)
Life ins reserves (net of reinsurance and policy loans)	Exh 8, Sec A, C 4, L 0399999 less P 2, L 5, C 1	NAIC diskette	X 0.0075** =	Calculation Field	(124)
<b>Total Low Risk:</b>		<u>Calculation Field</u>		<u>Calculation Field</u>	<u>(125)</u>
<b>Medium Risk Category (Medium Surrender Charges)</b>					
Annuity reserve with surrender charge (net of reinsurance)	Notes to Financial Statements P 27, Item 9, in part	<input type="text"/>	X 0.015** =	Calculation Field	(126)
Exhibit 10 reserve not included under Item 9, excluding any non-policyholder reserves		<input type="text"/>	X 0.015** =	Calculation Field	(127)
<b>Total Medium Risk</b>		<u>Calculation Field</u>		<u>Calculation Field</u>	<u>(128)</u>
<b>High Risk Category (No Surrender Charges)</b>					
Annuity reserve without adjustment (net of reinsurance)	Notes to Financial Statements P 27, Item 9, in part	<input type="text"/>	X 0.030** =	Calculation Field	(129)
<b>Total High Risk</b>		<u>Calculation Field</u>		<u>Calculation Field</u>	<u>(130)</u>
<b>Total C-3 Risk Categories</b>	<b>L (125) + L (128) + L (130)</b>	<u>Calculation Field</u>		<u>Calculation Field</u>	<u>(131)</u>

C (1). Line (131) should agree to annual statement reserves: Exh 8, Sec A, C 4, L 0399999 - P 2, L 5, C 1 + Exh 8, Sec B, C 4, L 0499999 + Exh 8, Sec C, C 4, L 0399999 + Exh 10, C 1, L 10 - non-policyholder reserves in Exhibit 10.

\*\* Factor is decreased by 1/3 if society submits an unqualified actuarial opinion under Sec 8 of revised Standard Valuation Law

\*Sources are referenced as P - page, Exh - Exhibit, Sch - Schedule, Sec - Section, C - Column, L - Line

Page and line numbers refer to the 1995 blank. Corresponding entries from blanks from later years shall be substituted as appropriate.

### Total Risk-Based Surplus Calculation

Asset Risk (C-1)	RBS Formula Reference	Risk-Based Surplus	
Bonds After Size Factor	L(13), C(2)	Inserted Field	(132)
Mortgages	L(25), C(2)	Inserted Field	(133)
Preferred Stock and Common Stock	L(63), C(2)	Inserted Field	(134)
Real Estate	L(70), C(2)	Inserted Field	(135)
Other long term assets	L(71), C(2)	Inserted Field	(136)
Concentration Factor	L(82), C(5)	Inserted Field	(137)
Miscellaneous	L(88), C(2)	Inserted Field	(138)
Reinsurance	L(105), C(2)	Inserted Field	(139)
Off-Balance Sheet Items	L(109), C(2)	Inserted Field	(140)
<b>Total C-1</b>		<b>Calculation Field</b>	<b>(141)</b>
<b>Insurance Risk (C-2)</b>			
Individual Health Insurance	L(117), C(2)	Inserted Field	(142)
Individual Life Insurance	L(121), C(2)	Inserted Field	(143)
<b>Total C-2</b>		<b>Calculation Field</b>	<b>(144)</b>
<b>Interest Rate Risk (C-3)</b>			
Low Risk Category	L(125), C(2)	Inserted Field	(145)
Medium Risk Category	L(128), C(2)	Inserted Field	(146)
High Risk Category	L(130), C(2)	Inserted Field	(147)
<b>Total C-3</b>		<b>Calculation Field</b>	<b>(148)</b>
<b>Risk-Based Surplus (after covariance)</b>	<b>Square Root of [(C-1 + C-3)<sup>2</sup> + (C-2)<sup>2</sup>]</b>	<b>Calculation Field</b>	<b>(149)</b>

\*Sources are referenced as P - page, Exh - Exhibit, Sch - Schedule, Sec - Section, C - Column, L - Line  
 Page and line numbers refer to the 1995 blank. Corresponding entries from blanks from later years shall be substituted as appropriate.

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Total Adjusted Surplus

	Annual Statement Source <sup>4</sup>	(1) Statement Value		Factor		(2) Adjusted Surplus	
<b>Company Amounts</b>							
Capital and Surplus	P 3, L 31, C 1	NAIC diskette	X	1.000	=	Calculation Field	(150)
Asset Value Reserve	P 3, L 22.1, C 1	NAIC diskette	X	1.000	=	Calculation Field	(151)
Voluntary Investment Reserve	P 3, L 23, C 1, write-in, in part#		X	1.000	=	Calculation Field	(152)
Dividend Liability	P 3, L 7.1 + 7.2, C 1	NAIC diskette	X	0.500	=	Calculation Field	(153)
<b>Subsidiary Company Amounts</b>							
Asset Value Reserve	Subsidiary statements		X	1.000 X **	=	Calculation Field	(154)
Voluntary Invest Reserves	Subsidiary statements#		X	1.000 X **	=	Calculation Field	(155)
Dividend Liability	Subsidiary statements		X	0.500 X **	=	Calculation Field	(156)
<b>Total Adjusted Surplus</b>		<u>Calculation Field</u>				<u>Calculation Field</u>	(157)

# Include voluntary investment reserves for default losses on real estate and mortgages.  
 \*\* Percent of Ownership

Comparison of Total Adjusted Surplus to Risk-Based Surplus

Insurance Management Ratio [Line (157)/Line (149)] Calculation Field (158)

Must be greater than or equal to 1.25 to meet the NFCA Insurance Management Standard.

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

<u>SVO Bond Rating Category</u>	<u>Annual Statement Source *</u>	(1) <u>Statement Value</u>	<u>Factor</u>	(2) <u>RBS Requirement</u>
<b>Long Term Bonds</b>				
(1) Exempt Obligations	AVRDC L1 C1		0.000	
(2) Asset class 1	AVRDC L2 C1		0.003	
(3) Asset class 2	AVRDC L3 C1		0.010	
(4) Asset class 3	AVRDC L4 C1		0.040	
(5) Asset class 4	AVRDC L5 C1		0.090	
(6) Asset class 5	AVRDC L6 C1		0.200	
(7) Asset class 6	AVRDC L7 C1		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 C1		0.000	
(10) Asset class 1	AVRDC L19 C1		0.003	
(11) Asset class 2	AVRDC L20 C1		0.010	
(12) Asset class 3	AVRDC L21 C1		0.040	
(13) Asset class 4	AVRDC L22 C1		0.090	
(14) Asset class 5	AVRDC L23 C1		0.200	
(15) Asset class 6	AVRDC L24 C1		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 L(18). No other class 1 bonds 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.

(1) Does your company have 5 plus years of mortgage experience? Enter "Y" for yes or enter "N" for no.

#REF!

	(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*
Quarter and Year						
(2) September 1994	XXXXXXXX	XXXXXXXX	XXXXXXXX		XXXXXXXX	XXXXXXXX
(3) December 1994						
(4) March 1995						
(5) June 1995						
(6) September 1995						
(7) December 1995						
(8) March 1996						
(9) June 1996						
(10) 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:  $[0.50 * C(1) + C(2) + C(3) + [C(4) \text{ current quarter less } C(4) \text{ previous quarter}]] / [C(5) + [C(4) \text{ current quarter less } C(4) \text{ previous quarter}]]$ ; and, the calculation for the first quarterly amounts (March):  $[0.50 * C(1) + C(2) + C(3) + C(4) \text{ current quarter}] / [C(5) + C(4) \text{ current quarter}]$ .

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Washington State Register, Issue 98-09

WSR 98-09-016



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 + S1B L0199999 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 + S1B L0299999 + L0399999 C5					0.030		
(8) 90 days overdue	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)								
L(11) C(4) should equal P2 L3.1 + L3.2 C4 + Sch B Pt2 S2 & S3 L9999999 C9 admitted amounts less involuntary reserves								

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@ 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



		(1)	(2)	(3)		(4)
	Annual		Less		Factor	RBS
	Statement Source*	Statement Value	Affiliated Stock	RBS Subtotal	Or Calc	Requirement
<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 Pt2 S2				0.003	
(11) Less Federal Home Loan Bank Common Stock	Included in Sch D Pt2 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.

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**Asset Risk (C-1) - Separate Accounts**

		(1)	Factor or Calculation#	(2)
	<u>Annual Statement Source</u>	<u>Statement Value</u>		<u>RBS Requirement</u>
<b>Separate Accts w/ Guarantees</b>				
(1) Guaranteed indexed	P2 L22 C4 in part (asset value)	_____	0.003	_____
(2) Non-indexed, non-Reg 128	Company Records	_____		_____
(3) Non-indexed, Reg 128*	Company Records	_____		_____
(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)		_____		_____
<i>L(10) C(1) should equal P2 L22 C4</i>				

\* 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)

		(1)		(2)
	<u>Annual Statement Source</u>	<u>Statement Value</u>	<u>Factor</u>	<u>RBS Requirement</u>
<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.

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<b>Asset Risk (C-1) - Other Long-Term Assets</b>		(1)	(2)	(3)		(4)
	<u>Annual Statement Source</u>	<u>Statement Value</u>	<u>Less Unrated Items@</u>	<u>RIS Subtotal</u>	<u>Factor</u>	<u>RIS Requirement</u>
<b>Sch BA - Fixed Income - Bonds</b>						
(1) Exempt Obligations	AVREC** L22 C1				0.000	
(2) Asset Class 1	AVREC** L23 C1				0.003	
(3) Asset Class 2	AVREC** L24 C1				0.010	
(4) Asset Class 3	AVREC** L25 C1				0.040	
(5) Asset Class 4	AVREC** L26 C1				0.090	
(6) Asset Class 5	AVREC** L27 C1				0.200	
(7) Asset Class 6	AVREC** L28 C1				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 C1					
(10) Less rated Class 1 surplus notes	L(18) C(1)					
(11) Net Asset Class 1 = L(9) - L(10)					0.023	
(12) Asset Class 2	AVREC** L31 C1				0.030	
(13) Asset Class 3	AVREC** L32 C1				0.060	
(14) Asset Class 4	AVREC** L33 C1				0.110	
(15) Asset Class 5	AVREC** L34 C1				0.220	
(16) Asset Class 6	AVREC** L35 C1				0.300	
(17) Total Sch BA Pref Stock = Sum of L(11) through L(16)						
<b>Rated Surplus Notes</b>						
	Sch BA Pt 1:					
(18) Asset Class 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 C1				0.200	
(26) Common Stock	AVREC** L60 C1				0.300	
(27) Real Estate	AVREC** L64 C1				0.200	
(28) Other Sch BA Assets	AVREC** L65 C1					
(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)					0.300	
(31) Total BA Assets = L(8) + L(17) + L(24) through L(27) + L(30)						

\*\* 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) Concentration Factor**

(1) <u>Type of Asset</u>	(2) <u>Combined Statement Value</u>	(3) <u>RBS Factor</u>	(4) <u>Additional RBS</u>	(5) <u>Subsidiary RBS or RBC</u>	(6) <u>Net RBS</u>
1. Issuer/Mortgagee #1					
#REF!					
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) <u>Type of Asset</u>	(2) <u>Combined Statement Value</u>	(3) <u>RBS Factor</u>	(4) <u>Additional RBS</u>	(5) <u>Subsidiary RBS or RBC</u>	(6) <u>Net RBS</u>
2. Issuer/Mortgagee #2					
#REF!					
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		0.050			
2.24 Write-ins		0.050			
2.25 Premium Notes		0.050			
2.99 Issuer Total					

\* Class 1 Bonds alone should not be included in the top ten (10) issuers.

(1) <u>Type of Asset</u>	(2) <u>Combined Statement Value</u>	(3) <u>RBS Factor</u>	(4) <u>Additional RBS</u>	(5) <u>Subsidiary RBS or RBC</u>	(6) <u>Net RBS</u>
3. Issuer/Mortgagee #3					
#REF!					
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					

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\* Class 1 Bonds alone should not be included in the top ten (10) Issuers.

(1)	(2) Combined Statement Value	(3) RBS Factor	(4) Additional RBS	(5) Subsidiary RBS or RBC	(6) Net RBS
<u>Type of Asset</u>					
4. Issuer/Mortgagee #4					
#REF!					
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.



(1) <u>Type of Asset</u>	(2) <u>Combined Statement Value</u>	(3) <u>RBS Factor</u>	(4) <u>Additional RBS</u>	(5) <u>Subsidiary RBS or RBC</u>	(6) <u>Net RBS</u>
5. Issuer/Mortgagee #5					
#REF!					
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					

\* Class 1 Bonds alone should not be included in the top ten (10) issuers.



(1) <u>Type of Asset</u>	(2) <u>Combined Statement Value</u>	(3) <u>RBS Factor</u>	(4) <u>Additional RBS</u>	(5) <u>Subsidiary RBS or RBC</u>	(6) <u>Net RBS</u>
6. Issuer/Mortgagee #6					
#REF!					
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 Foreclosed		0.150			
6.12 Real Estate Foreclosed 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.

(1) <u>Type of Asset</u>	(2) <u>Combined Statement Value</u>	(3) <u>RBS Factor</u>	(4) <u>Additional RBS</u>	(5) <u>Subsidiary RBS or RBC</u>	(6) <u>Net RBS</u>
7. Issuer/Mortgagee #7					
#REF!					
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.



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(1) <u>Type of Asset</u>	(2) <u>Combined Statement Value</u>	(3) <u>RBS Factor</u>	(4) <u>Additional RBS</u>	(5) <u>Subsidiary RBS or RBC</u>	(6) <u>Net RBS</u>
8. Issuer/Mortgagee #8	#REF!				
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					

\* Class 1 Bonds alone should not be included in the top ten (10) issuers.

(1) <u>Type of Asset</u>	(2) <u>Combined Statement Value</u>	(3) <u>RBS Factor</u>	(4) <u>Additional RBS</u>	(5) <u>Subsidiary RBS or RBC</u>	(6) <u>Net RBS</u>
<b>9. Issuer/Mortgagee #9</b>					
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					

\* 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
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					
<b>11.99 TOTAL OF ALL ISSUERS</b>					

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\* Class 1 Bonds alone should not be included in the top ten (10) issuers.

	<u>Annual Statement Source</u>	(1) <u>Statement Value</u>	<u>Factor</u>	(2) <u>RBS Requirement</u>
<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

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**Asset Risk (C-1) - Reinsurance**

		(1)	(2)	(3)	(4)
	<u>Annual Statement Source</u>	<u>Statement Value</u>	<u>100% Owned Affiliates</u>	<u>RBS Subtotal</u>	<u>RBS Requirement</u>
<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>					
	Sch S Pt3C:	<u>Statement Value</u>	<u>Other than 100% Owned Affiliates</u>	<u>RBS Subtotal</u>	<u>RBS Requirement</u>
(8) Affiliate reserve credit (Life)	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.



	<u>Annual Statement Source</u>	(1) <u>Statement Value</u>	<u>Factor</u>	(2) <u>RBS Requirement</u>
<b>Noncontrolled assets</b>				
General Interrogatories Question:				
(1) Loaned to Others	L29(b) Item I	_____		
(2) Subject to reverse repurchase agreements	L29(b) Item iii	_____		
(3) Subject to dollar repurchase agreements	L29(b) Item iv	_____		
(4) Pledged as collateral	L29(b) Item v	_____		
(5) Placed under option agreements	L29(b) Item vi	_____		
(6) Assets placed under option agreements	L29(b) Item vii	_____		
(7) Letter stock or other securities restricted	L29(b) Item viii	_____		
(8) Other	L29(b) Item ix	_____		
(9) Total Noncontrolled Assets = Sum of L(1) through L(8)		_____	0.010	_____
<b>Derivative Instruments</b>				
(10) Potential Exposure Asset Class 1	Sch DB PtE S1 C5 in part	_____	0.003	_____
(11) Potential Exposure Asset Class 2	Sch DB PtE S1 C5 in part	_____	0.010	_____
(12) Potential Exposure Asset Class 3	Sch DB PtE S1 C5 in part	_____	0.040	_____
(13) Potential Exposure Asset Class 4	Sch DB PtE S1 C5 in part	_____	0.090	_____
(14) Potential Exposure Asset Class 5	Sch DB PtE S1 C5 in part	_____	0.200	_____
(15) Potential Exposure Asset Class 6	Sch DB PtE S1 C5 in part	_____	0.300	_____
(16) Total Derivative Instrument Potential Exposure = Sum of L(10) through L(15)		_____		_____
(17) Guarantees for affiliates	Notes to Financial Statements 6e	_____	0.010	_____
(18) Contingent liabilities	Notes to Financial Statements 16a	_____	0.010	_____
(19) Long-term leases	Notes to Financial Statements 17	_____	0.000	_____
(20) Total Off-Balance Sheet Items = L(9) + L(16) through L(19)		_____		_____

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**Insurance Risk (C-2) - Health Premiums and Claim Reserves**

	<u>Annual Statement Source</u>	(1) <u>Statement Value</u>	<u>Factor</u>	(2) <u>RBS Requirement</u>
<b>Medical Insurance Premium</b>				
<b>Individual Morbidity</b>				
(1) Usual & customary major medical & hospital	Sch H Pt1 L2 in part		*	
(2) Medicare suppl, dental, and other limited benefits not anticipating rate increases	Sch H Pt1 L2 in part		0.120	
(3) Hospital indemnity, AD&D, and other limited benefits not anticipating rate increases	Sch H Pt1 L2 in part		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>				
<b>Individual Morbidity</b>				
(8) Noncancellable disability income	Sch H Pt1 L2 in part		*	
(9) Other disability income	Sch H Pt1 L2 in part		*	
<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(11) C(1) should equal Sch H Pt1 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)				N/A
(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)

	<u>Annual Statement Source</u>	(1) <u>Statement Value</u>	<u>Factor</u>	(2) <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			
(3) Plus industrial life in force		N/A		
(4) Less industrial life reserves		N/A		
(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	N/A
(16) FEGLI/SGLI Life In Force	EOLI* L36 & L37 C2 & C4 x 1,000	N/A	0.0005	N/A
(17) Total Life = L(6) + L(15) + L(16)				

\* EOLI stands for Exhibit of Life Insurance

\*\* Tiered calculation shown in instructions for factors on L(6) and L(15)

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**Insurance Risk (C-2) - Premium Stabilization Reserves**

		(1)		(2)
	<u>Annual Statement Source</u>	<u>Statement Value</u>	<u>Factor</u>	<u>RBS Requirement</u>
<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

	<u>Annual Statement Source</u>	(1) <u>Statement Value</u>	<u>Factor*</u>	(2) <u>RBS Requirement</u>
(1) Adjustment for unqualified Sec 8 actuarial opinion (enter "Y" for yes, "N" for no)				
<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			
(5) Life insurance reserves-net of reinsurance	Exh 8 L03999999 C4			
(6) Less life insurance reserves policy loans	P2 L5 in part			
(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 amts 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			
(12) Additional actuarial reserves - asset/liability analysis	Exh 8 L0900004 C4			
(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).

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**Business Risk (C-4)**

	<u>Annual Statement Source</u>	(1) <u>Statement Value</u>	<u>Factor</u>	(2) <u>RBS Requirement</u>
<b>Premiums Subject to Guarantee Fund Assessment</b>				
(1) Life & Annuity Premiums	Sch T L58 C8	_____		
(2) Less American Samoa 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	_____		
(8) Total Life & Annuity Premiums = L(1) - the sum of L(2) through L(7)		_____	0.020	_____
(9) Accident & Health Premiums	Sch T L58 C9	_____		
(10) Less American Samoa 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	_____		
(16) Total Accident & Health Premiums = L(9) - the sum of L(10) through L(15)		_____	0.005	_____
(17) Total Business Risk (C-4) = L(8) + L(16)		_____		_____

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- (26) Individual & Industrial Life Insurance
- (27) Group & Credit Life Insurance & FEGI/SGLI
- (28) Individual Health Insurance
- (29) Group & Credit Health Insurance
- (30) Premium Stabilization Reserve Credit
- (31) Total (C-2)

P(13-1) L(6) C(2)  
 N/A  
 P(12-1) L(21) C(2)  
 N/A  
 N/A  
 Sum of L(26) through L(30)

N/A
N/A
N/A
N/A

**Interest Rate Risk (C-3)**

- (32) Low Risk Category
- (33) Medium Risk Category
- (34) High Risk Category
- (35) Total (C-3)

P(15-1) L(8) C(2)  
 P(15-1) L(13) C(2)  
 P(15-1) L(15) C(2)  
 Sum of L(32) through L(34)


**Business Risk (C-4)**

- (36) Total (C-4)

P(16-1) L(17) C(2)

--

**Total Risk-Based Surplus After Covariance**

- (37) (C-0) + (C-4) + square root of  $[(C-1) + (C-3)]^2 + (C-2)^2$

--

**Authorized Control Level Risk-Based Surplus (after covariance adjustment)**

- (38) Total Risk-Based Surplus After Covariance x 50%

N/A
-----



**Calculation of Total Adjusted Surplus**

		(1)	Factor	(2)
Society Amounts	Annual Statement Source	Statement Value		Adjusted Surplus
(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	_____
---	-------

\* 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.

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Summary for Subsidiary Controlled and Affiliated Investments

Affiliate Types	Affil Code for Column (2)	(1)	(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

Preferred Stock

Sch D Pt 6 Sn 1 Type	Annual Statement Line Number	(1)	(2)	(3)
		Annual Statement Total Preferred Stock	Total from LRBC Report	Difference C(1) - C(2)
(01) Parent	0199999			
(02) US P/C Insurer	0299999			
(03) US Life Insurer	0399999			
(04) Alien Insurer	0499999			
(05) Non-insurer Which Controls Insurer	0599999			
(06) Investment Subsidiary	0699999			
(07) Other Affiliates	0799999			
(08) TOTAL	0899999			

Common Stock

Annual Statement Line Number	Annual Statement Total Common Stock	(4)	(5)	(6)
		Total from LRBC Report	Difference C(4) - C(5)	
0999999				
1099999				
1199999				
1299999				
1399999				
1499999				
1599999				
1699999				

Affiliated Preferred Stock Check Total to Sch D Pt2 S2

(09)	0499999		
------	---------	--	--

Affiliated Common Stock Check Total to Sch D Pt2 S2

(09)	0499999		
------	---------	--	--

**Level of Action**

**Source**

**RBS Amount**

(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\*:


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\* 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.

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**Trend Test**

**Criteria for Applying Trend Test**

Amount

(1) Authorized Control Level RBS	N/A
(2) Trend Test Safe Harbor	N/A
(3) Total Adjusted Surplus	N/A

*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)**

Formula Reference

(4) Current year margin	L (3) - L (1)	N/A
(5) First prior year margin	From prior year RBC report	
(6) Third prior year margin	From third prior year RBC report	
(7) Decrease in margin from first prior year	L(5) - L(4) (zero if negative)	N/A
(8) Decrease in margin from third prior year	L(6) - L(4) (zero if negative)	N/A
(9) Average decrease in last three years	1/3 of L(8)	N/A
(10) Marginal difference	Greater of L(7) or L(9)	N/A
(11) Total adjusted surplus less margin difference	L(3) - L(10)	N/A
(12) Trend Test Trigger = 1.9 x ACL RBC	1.9 * L(1)	N/A

Level of Regulatory Action:

N/A

**Additional Information Required for the Sensitivity Tests**

**Source**

**Statement Value**

(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 5yr 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 Total Current Year's Capital	Society's Annual Statement	N/A
(10.1c) Contributions: Society	L(10.1a) + L(10.1b)	N/A
Current Year's Capital Contributions:		
(10.2) Subsidiaries	Subs' Life Annual Statement P4 L43a + L44a C1; P&C Annual Statement P4 L24a + 25a C1	N/A

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**Sensitivity Tests - Authorized Control Level**

Sensitivity Tests Affecting Authorized Control Level Risk-Based Surplus		(1)	(2)	(3)	(4)
Source		Statement Value	Additional Sensitivity Factor	Authorized Control Level Before Test	Authorized Control Level After Test
<b>Other Affiliates:</b>					
(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		
<b>Noncontrolled Assets:</b>					
(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		

Sensitivity Tests

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<b>Guarantees for Affiliates:</b>							
(3.1)	Society	Off-Balance Sheet Items L17 C1		0.020			
(3.1)	Subsidiaries	Additional Information Required L(3.2)		0.020			
(3.99)	Total Guarantees for Affiliates			0.020			
<b>Contingent Liabilities:</b>							
(4.1)	Society	Off-Balance Sheet Items L18 C1		0.020			
(4.2)	Subsidiaries	Additional Information Required L(4.2)		0.020			
(4.99)	Total Contingent Liabilities			0.020			
<b>Long-Term Leases:</b>							
(5.1)	Society	Off-Balance Sheet Items L19 C1		0.020			
(5.2)	Subsidiaries	Additional Information Required L(5.2)		0.020			
(5.99)	Total Long-Term Leases			0.020			
<b>Affiliated Investments:*</b>							
(7.1)	Society	Additional Information Required L(7.1d)		0.100			
(7.2)	Subsidiaries	Additional Information Required L(7.2)		0.100			
(7.99)	Total Affiliated Investments			0.100			
<b>Dividend Liability:</b>							
(8.1)	Society	Calculation of Total Adj Surplus L(4) C(1)		-0.250			
(8.2)	Subsidiaries	Calc. of Total Adj Capital L(4) + L(5)C(1)		-0.250			
(8.99)	Total Dividend Liability			-0.250			
<b>Surplus Notes:</b>							
(9.1)	Society	Additional Information Required L(9.1)		-1.000			
(9.2)	Subsidiaries	Additional Information Required L(9.2)		-1.000			
(9.99)	Total Surplus Notes			-1.000			
<b>Current Year Capital Contribution:</b>							
(10.1)	Society	Additional Information Required L(10.1c)	N/A	-1.000	N/A	N/A	N/A
(10.2)	Subsidiaries	Additional Information Required L(10.2)		-1.000			
(10.99)	Total Current Year Capital Contributions			-1.000			





\* 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 Pt2 L30 C6 + Exh 5 L10 C4 + Exh 6 L6 C4)*
- (3) 1996 Fraternal Expenditures   
*(Exh 1 Pt2 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)

- (9) 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**

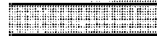
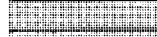



- (11) Statutory Surplus Dec 31 1996 - P3 L31 C1 
- (12) Statutory Surplus Dec 31 1993 - P3 L28 C1 
- (13) L(11) - L(12) + L(4), but not less than 0 
- (14) Total = L(13) \* 0.15 

**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.

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**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.)

<u>Total Adjusted Surplus</u>	<u>1993 Annual Statement Source</u>	<u>Statement Value</u>	<u>Factor</u>	<u>Adjusted Surplus</u>
(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.

<u>Line (21)</u>	<u>Source</u>	<u>(a)</u> <u>Number of issuers</u>		<u>(b)</u> <u>Weighted Issuers</u>		
First 50	Company Records	_____	X	2.5	=	_____
Next 50	Company Records	_____	X	1.3	=	_____
Next 300	Company Records	_____	X	1.0	=	_____
Next 400	Company Records	_____	X	0.9	=	_____
Total Number of Issuers from Line (20)		_____				_____
Total Weighted Issuers						_____
Size Factor = Total Weighted Issuers divided by Total Number of Issuers						_____

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**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.

**Mortgages**

Page (3-1)

**Basis of Factors**

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.

## 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 (5). 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 mortgages 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 owed 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.

Page 7

**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.



	<u>Annual Statement Source</u>	(1) <u>Statement Value</u>	Factor	(2) <u>RBS Requirement</u>
<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 (1))	_____		_____
<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 L 2 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:

<u>Line (6)</u>	<u>Individual &amp; Industrial</u>	(1) <u>Statement Value</u>	Factor	(2) <u>RBS Requirement</u>
	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.

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Permanent

## 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

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:

		<b>Balance Sheet</b>	
		Holder Inc.	
		12/31/xx	
ABC Life	\$4,000,000	Long-Term Debt	\$14,000,000
XYZ Casualty	2,000,000	Other Liabilities	5,000,000
GX Todd Real Estate	10,000,000		
Cash	5,000,000	Equity	5,000,000
Other Assets	3,000,000		
<b>Total Assets</b>	<b>\$24,000,000</b>	<b>Total Liabilities &amp; Equity</b>	<b>24,000,000</b>

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 Insurance 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 allocated 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.



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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.

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## 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.

**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)

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**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.

Permanent

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 sections of the Washington Administrative Code are repealed:

WAC 284-36A-030

RBS level—Commissioner's action.

**WSR 98-09-023**  
**PERMANENT RULES**  
**DEPARTMENT OF LICENSING**

[Filed April 8, 1998, 1:55 p.m.]

Date of Adoption: April 8, 1998.

Purpose: (1) Clarify the requirements for general provisions for signatures for vessel registration, application, release of interest, and certification; and (2) to meet the criteria set forth in Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-93-430 and 308-93-480; and amending WAC 308-93-440, 308-93-450, 308-93-460, and 308-93-470.

Statutory Authority for Adoption: RCW 88.02.070.

Adopted under notice filed as WSR 98-05-068 on February 17, 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 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 4, Repealed 2; 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.

April 8, 1998

Evelyn P. Yenson

Director

AMENDATORY SECTION (Amending WSR 96-03-046, filed 1/11/96, effective 2/11/96)

**WAC 308-93-440 (~~Lack of proper release.~~) Ownership in doubt.** ((If the registered or legal owner(s), as shown in the records of the department or a foreign state issuing the last certificate of ownership and/or registration of a vessel, has not released his/her interest in the vessel, by endorsement on the certificate of ownership or by a satisfactory release of interest, the following must be attached to an application for Washington certificate of ownership:

(1) ~~Proper documentation authorized in WAC 308-93-430 to be used in lieu of a release by the registered or legal owner; or~~

(2) ~~A bond in accordance with WAC 308-93-210; or~~

(3) ~~The following, if satisfactory to the department:~~

(a) ~~An affidavit by the applicant stating the reasons the person is unable to obtain a release of interest from the registered and/or legal owner(s) of record; and~~

(b) ~~Evidence of ownership of the vessel by the applicant such as, but not limited to, a bill of sale; and~~

(c) ~~Evidence of attempts to locate the owner(s) of record such as, but not limited to, copies of correspondence sent by~~

~~registered or certified mail, return receipt requested to the last known address of the owner.~~

~~(4) For purposes of this section, an individual purchaser or transferee of a vessel may request the name and address of the owner(s) of record for that vessel by satisfying subsection (3)(a) and (b) of this section and completing a form provided by the department. When satisfied the request is for obtaining proper release of interest, the department may disclose the name(s) and address of the last owner(s) of record for that vessel.)~~ When an applicant is unable to provide an acceptable release of interest as defined in WAC 308-93-460 from the owner(s) of record for a vessel, the applicant may:

(1) Petition any district or superior court of any county of this state to receive a judgment awarding ownership of the vessel. Such judgment is required if ownership of the vessel is contested after the applicant makes application for ownership in doubt and before the three-year ownership in doubt period has lapsed; or

(2) Apply for registration only or bonded certificate of ownership as described in this rule if a judgment is unnecessary as described in subsection (1) of this section. The applicant shall:

(a) Provide evidence of ownership of the vessel such as, but not limited to, a bill of sale;

(b) Make a reasonable effort to determine ownership of the vessel by writing to the agency that issued the last known certificate of ownership or registration. For purposes of this section, an individual purchaser or transferee of a vessel may request the name and address of the owner(s) of record for that vessel from the department by satisfying (b)(i) or (ii) of this subsection and completing a form approved by the department. When satisfied the request is for obtaining proper release of interest, the department may disclose the name(s) and address of the last owner(s) of record for that vessel.

(i) If a record is found, the applicant shall send a certified or registered letter, return receipt requested, to each owner and secured party of record at the address shown on the last record. The letter shall contain information regarding the sender's claim to ownership or a notarized or certified release of interest.

(ii) If no record is found, or the previous owner did not respond within fifteen days after acknowledged receipt or the letter was returned unclaimed, the applicant shall provide an affidavit of Request for Bonded Title or Registration without Title form explaining how the vessel was acquired.

(c) Determine whether to bond the vessel and apply for a certificate of ownership or apply for registration only. A bond is required if the seller of the vessel is a Washington state vessel dealer or in lieu of the judgment described in subsection (1) of this section if there is evidence of a security agreement on the last record as found in (b) of this subsection. A bond shall be for a period of three years from the date of application and be in the amount of one and one-half times the value of the vessel as determined by one of the following:

(i) A statement from a vessel dealer showing the average retail value of that year, make and model of the vessel in average condition; or

(ii) Information provided by any guide book or other publication of recognized standing in the vessel industry; or

(iii) An agreement reached between the applicant and an authorized department agent or employee.

(d) Apply to the department after the three-year bond or registration only period has lapsed, or submit the proper endorsement on the certificate of ownership or a satisfactory release of interest. The department shall, upon proper application, issue a certificate of ownership without the bond notation.

(e) Upon transferring ownership during the three-year ownership in doubt period, provide the transferee with a notarized or certified release of interest. The new owner may either provide a judgment as described in subsection (1) of this section or shall apply to the department for ownership in doubt as described in subsection (2) of this section and complete the time remaining on the previous ownership in doubt period.

**AMENDATORY SECTION** (Amending WSR 92-24-035, filed 11/25/92, effective 12/26/92)

**WAC 308-93-450 Signature of ~~((registered))~~ owner on application—Exceptions.** ~~((On an))~~ All vessel owners are required to sign the application for ~~((an original, reissue, or transfer of))~~ certificate of ~~((title, the signature of each registered owner of the vessel is required))~~ ownership except:

(1) When the application is for the sole purpose of removing a ~~((legal owner))~~ secured party of record from the certificate of ~~((title when that legal owner's security interest has been satisfied in the vessel))~~ ownership;

(2) When authorized supportive documentation is used in lieu of the signature or signatures;

(3) When the legal owner applies for a duplicate ~~((title))~~ certificate of ownership;

(4) When there is a statutory authorized lien filed by a government agency ~~((to place a lien))~~ against the vessel ~~((as a secured party));~~

(5) ~~((When ownership is transferred with an affidavit of repossession; or~~

~~((6))~~ When an existing legal owner's perfected security interest is transferred to another party and the new ~~((legal owner))~~ secured party is perfecting their security interest ~~((and removing the existing legal owner. Evidence or documentation of the secured interest transfer must be provided)).~~

(6) Only one owner's signature is required when:

(a) The last certificate of ownership was issued in another jurisdiction; and

(b) The last certificate of ownership shows multiple registered owners; and

(c) Ownership is not changing.

**AMENDATORY SECTION** (Amending WSR 93-14-082, filed 6/30/93, effective 7/31/93)

**WAC 308-93-460 ~~((Releasing))~~ Release of interest.** ~~((1))~~ Any person releasing legal or registered owner interest in a vessel shall sign the release of interest provided on the certificate of ownership issued by the department or a previous jurisdiction, or a release of interest document approved by the department.

~~((2))~~ Signatures releasing owner interest on approved documents other than the certificate of ownership must be certified in accordance with WAC 308-93-470.

~~((3))~~ A release of interest is not required from one identified as a lessee.

~~((4))~~ A valid marine document, issued by the United States Coast Guard, Documentation Office is acceptable in lieu of release of interest signatures on the certificate of ownership.

~~((5))~~ When a vessel is removed from being marine documented, a copy of the removal letter from the United States Coast Guard, Documentation Office or a certified copy of the document abstract from the United States Coast Guard, Documentation Office showing removal from being documented and a release of interest document, approved by the department, with notarized signatures of the former owners is acceptable evidence for release of interest by the former owners.) (1) Vessel owner(s) and secured parties who intend to release interest in a vessel shall:

(a) Sign the release of interest provided on the certificate of ownership issued by the department; or

(b) Sign a release of interest document or form approved by the department.

(2) In lieu of subsection (1)(a) and (b) of this section, secured parties who intend to release their interest in a vessel may provide:

(a) Their properly completed official lien release form; or

(b) A release of interest on their official letterhead, if the secured party is a business entity.

(3) If the Washington certificate of ownership is a paperless title, the secured party may release their interest electronically or by signing an affidavit in lieu of title. If the affidavit in lieu of title is printed at their business location, the signature need not be notarized.

(4) Signatures releasing owner interest on department approved documents other than the certificate of ownership must be notarized or certified in accordance with WAC 308-93-470. Signatures releasing interest on the certificate of ownership issued by the department or another jurisdiction do not need to be notarized or certified.

(5) Secured parties who are businesses do not need to have their signatures notarized or certified when releasing interest in a vessel in accordance with subsection (2)(a) or (b) of this section if the current certificate of ownership is submitted with an application for a new certificate of ownership.

(6) A release of interest is not required:

(a) From an owner identified as a lessee; or

(b) If a valid marine document has been issued by or applied for from the United States Coast Guard Documentation Office; or

(c) When other appropriate documents are submitted in lieu of the release of interest. Such documents may include, but are not limited to, a certified or notarized: Bill of sale, affidavit in lieu of title with the release of interest portion properly completed, release of interest form, affidavit of loss of title with the release of interest portion properly completed, or letter of release.

(7) If a vessel is documented, a United States Coast Guard abstract may be used to release the interest of the secured party for a vessel registered in Washington.



(8) Secured parties who intend to release interest on a vessel that has a marine document issued by the United States Coast Guard, Documentation Office shall provide:

(a) Their properly completed official lien release form; or

(b) A release of interest on their official letterhead, if the secured party is a business entity;

(c) Provide a certified copy of the satisfaction of Preferred Marine Mortgage;

(d) Provide a certified copy of the document abstract from the United States Coast Guard, Documentation Office showing the lien has been satisfied.

(9) When a vessel is removed from being marine documented, the owner shall provide:

(a) A copy of the removal letter from the United States Coast Guard, Documentation Office; or

(b) Documentation described in subsection (8) of this section; and

(c) If ownership is changing, approved releases of interest as described in this rule.

AMENDATORY SECTION (Amending Order 736-DOL, filed 11/18/83)

WAC 308-93-470 Certification of signatures. ((The signature of every applicant to be shown on the certificate of title as the registered owner and of other signatures, as required, shall be subscribed to and sworn to by that person before a notary public, county auditor, deputy auditor, an authorized agent approved by the director of licensing, an agent appointed by the director of licensing, an employee or appointee of either type or agent, or an employee of the department of licensing authorized by the director to certify to an applicant's signature. Approved identification of the person signing shall be required.)) (1) Signatures shall be notarized by a notary public or certified by agents and sub-agents appointed by the director to conduct vessel title and registration activities on behalf of the department. The certification must include the signature and the county, office, and operator numbers of the person certifying the signature. Signatures may also be certified by one of the following:

(a) Employees authorized by the director to certify signatures. These employees are:

(i) Deputy director; and

(ii) Assistant director for vehicle services; and

(iii) Administrator and managers of the division primarily responsible for vessel title and registration; and

(iv) Persons assigned to liaison duties between the department and its agents and subagents; and

(v) Persons assigned the responsibility of accepting title and registration applications at the department's offices; and

(vi) Persons assigned the responsibility for investigating vessel dealer activities; and

(b) Persons named on a Washington vessel dealer's bond, filed with the department, if the vessel is sold by that licensed vessel dealer. The certification must include the signature, title, and dealer number of the person certifying the signature.

(2) The person certifying the signatures shall require proof of identification. Approved identification is:

(a) Driver's license; or

(b) Any photo identification card; or

(c) Any two of the following:

(i) A nationally or regionally recognized credit card (signed);

(ii) A signed ID card issued by a city, county, state or federal government agency;

(iii) Any certificate or other document issued by a government agency for the purpose of establishing identity; or

(d) Other documentation satisfactory to the person certifying the signature.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-93-430

Release of interest.

WAC 308-93-480

Certification of signature—  
Departmental employees.

#### **WSR 98-09-024**

#### **PERMANENT RULES**

#### **DEPARTMENT OF LICENSING**

[Filed April 8, 1998, 2:00 p.m.]

Date of Adoption: April 8, 1998.

Purpose: (1) Identify who may apply for special license plates and what is required to do so; (2) to meet the criteria set forth in Governor Locke's Executive Order 97-02; and (3) add one new section to chapter 308-96A WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 308-96A-065, 308-96A-066, 308-96A-068, 308-96A-070, 308-96A-071, 308-96A-073, 308-96A-074, 308-96A-175, and 308-96A-176.

Statutory Authority for Adoption: RCW 46.01.110.

Other Authority: RCW 46.16.335.

Adopted under notice filed as WSR 98-04-071 on February 3, 1998.

Changes Other than Editing from Proposed to Adopted Version: Price for collector vehicle plates and horseless carriage plates went back to \$35 from \$40. This was done to keep within the guidelines of Initiative 601.

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 1, Amended 9, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 9, 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.

April 8, 1998

Evelyn P. Yenson

Director

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 re-assigned 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 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 substances;~~

~~(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 ((Heense)) 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 thirty-five 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 thirty-five 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~~

(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 98-09-029**

**PERMANENT RULES**

**DEPARTMENT OF TRANSPORTATION**

[Order 172—Filed April 10, 1998, 8:50 a.m.]

Date of Adoption: April 9, 1998.

Purpose: To create a rule setting maximum criteria for oversize and overweight vehicles and/or loads carried by vehicles, including height, weight, width and length. Includes certain exceptions for reducible loads such as hay bales and empty apple bins.

Citation of Existing Rules Affected by this Order: Amending WAC 468-38-070.

Statutory Authority for Adoption: RCW 46.44.090.

Adopted under notice filed as WSR 98-06-016 on February 20, 1998.

Changes Other than Editing from Proposed to Adopted Version: Adds references to hay bales owned and transported by owners for their own use, on preapproved routes.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 9, 1998

Gerald E. Smith

Deputy Secretary

Operations

AMENDATORY SECTION (Amending WSR 96-23-003, filed 11/7/96, effective 12/8/96)

**WAC 468-38-070 Maximums for special permits—Nonreducible.** (1) Overwidth: 14 feet on any two-lane highway; 20 feet on any multiple-lane highway where a physical barrier serving as a median divider separates the oncoming and opposing traffic lanes; 32 feet on any multiple-lane undivided highway.

The regulations on movement of buildings are in WAC 468-38-360.

(2) Overheight: A load over 14 feet high must be moved by permit, but the permittee is to be governed by the clearance of overhead obstructions such as bridges, underpasses, wires, overhead signs and other objects. The issuance of a permit does not insure the route to be free of low overhead structures. It is the responsibility of the permittee to check the proposed route and detour when necessary. County or city road detours for this purpose require authorization from

respective jurisdictions. Vehicles hauling empty apple bins, or ranchers hauling their own hay for their own livestock, may be issued permits to haul these respective loads up to 15 feet high on preapproved routes within a three-county area.

(3) Overlength: The permit will allow movement on routes on which the permittee can negotiate curves, interchanges, entrance and exit roadways and other obstacles. In all instances the general safety of the public is considered paramount.

(4) Overweight: 22,000 pounds on a single axle; 43,000 pounds on tandem axles. (RCW 46.44.091)

**WSR 98-09-031**  
**PERMANENT RULES**  
**LAKE WASHINGTON**  
**TECHNICAL COLLEGE**  
 [Filed April 10, 1998, 10:58 a.m.]

Date of Adoption: April 7, 1998.

Purpose: To amend WAC 495D-104-010 to change the time of day of regular meetings of the board of trustees.

Citation of Existing Rules Affected by this Order: Amending WAC 495D-104-010.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 98-06-020 on February 23, 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 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.

April 7, 1998

Donald W. Fowler  
 President

**Chapter 495D-104 WAC**

**BOARD OF TRUSTEES**

AMENDATORY SECTION (Amending WSR 95-23-043, filed 11/13/95, effective 12/14/95)

**WAC 495D-104-010 Time and place of board meetings.** The board of trustees shall hold one regular meeting (~~on the second Wednesday of~~) each month (~~at 6:00 p.m.~~) and such special meetings as may be requested by the chair of

the board or by a majority of the members of the board. ~~((and)) All regular and special meetings of the board of trustees shall be announced in accordance with law.~~ All regular and special meetings of the board of trustees shall be held at Lake Washington Technical College, unless scheduled elsewhere, and are open to the general public, except for lawful executive sessions. No official business may be conducted by the board of trustees except during a regular or special meeting.

**WSR 98-09-041**

**PERMANENT RULES**

**INSURANCE COMMISSIONER'S OFFICE**

[Insurance Commissioner Matter R 98-01—Filed April 14, 1998, 1:51 p.m.]

Date of Adoption: April 14, 1998.

Purpose: Repeal various outdated or inefficient sections of Title 284 WAC.

Citation of Existing Rules Affected by this Order: Repealing WAC 284-17-300, 284-51-180, 284-58-040, 284-58-050, and 284-58-060.

Statutory Authority for Adoption: RCW 48.02.060, 48.17.150, 48.44.040, 48.46.200.

Other Authority: RCW 48.44.050.

Adopted under notice filed as WSR 98-04-084 on February 4, 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 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, 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 5.

Effective Date of Rule: Thirty-one days after filing.

April 14, 1998

Greg J. Scully

Chief Deputy Commissioner

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 284-17-300

Continuing education advisory committee.

PERMANENT

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 98-09-048****PERMANENT RULES****DEPARTMENT OF AGRICULTURE**

[Filed April 15, 1998, 2:15 p.m.]

Date of Adoption: April 15, 1998.

Purpose: To adopt the current federal regulations that cover food in interstate commerce as state rules for the purpose of maintaining uniformity. This will ensure that food produced and processed in Washington state will meet the United States food safety standards and labeling regulations. This rule will update the adoption of the 1995 federal regulations by adopting the 1997 federal regulations.

Statutory Authority for Adoption: RCW 69.04.392, 69.04.394, 69.04.396, 69.04.398, and 69.07.020.

Adopted under notice filed as WSR 98-04-076 on February 4, 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 6, 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 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, 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 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 15, 1998

Jim Jesernig

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 12/27/94 [12/26/96], effective 1/27/95 [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.

~~((Part 103 — Quality Standards for Foods With no Identity Standards.~~

~~((e)))~~ Part 104 - Nutritional Quality Guidelines for Foods.

~~((f)))~~ ~~((e))~~ Part 105 - Foods for Special Dietary Use.

~~((g)))~~ ~~((f))~~ Part 106 - Infant Formal Quality Control Procedures.

~~((h)))~~ ~~((g))~~ Part 107 - Infant Formula.

~~((i)))~~ ~~((h))~~ Part 108 - Emergency Permit Control.

~~((j)))~~ ~~((i))~~ Part 109 - Unavoidable Contaminants in Food for Human Consumption and Food Packaging Material.

~~((k)))~~ ~~((j))~~ Part 110 - Current Good Manufacturing Practice in Manufacturing, Packing and Holding Human Food.

~~((k))~~ 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.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

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 - Edibles 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 98-09-049

## PERMANENT RULES

## DEPARTMENT OF AGRICULTURE

[Filed April 15, 1998, 3:58 p.m.]

Date of Adoption: April 15, 1998.

Purpose: To reevaluate the current rule due to recent introduction of hop powdery mildew, a plant disease formerly absent in this state. Also, updating obsolete requirements and language.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-354-002 Promulgation, and amending WAC 16-354-005, 16-354-010, 16-354-020, 16-354-030, 16-354-040, 16-354-050, 16-354-070, and 16-354-100.

Statutory Authority for Adoption: Chapter 15.14 RCW.

Adopted under notice filed as WSR 98-06-082 on March 4, 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 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 8, 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 8, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 15, 1998

James M. Jesernig  
 Director

AMENDATORY SECTION (Amending Order 5083, filed 8/28/95, effective 9/28/95)

**WAC 16-354-005 Hop rootstock—General.** (1) Rootstocks of hops and hop plants (*Humulus Lupulus L.*) may be designated as foundation stock, registered stock (~~and~~) or certified stock (~~when inspected, tested and found to be discernibly free from~~), if the rootstocks and plants from which they were produced have been inspected and tested in accordance with procedures and requirements outlined in rule. At a minimum, these procedures and requirements deal with Ilar viruses and virus-like diseases, downy mildew, (~~powdery mildew~~;) verticillium wilt, crown gall, rootknot nematode, hop cyst nematode (~~or~~) and other serious pests (~~by procedures and inspections outlined in this program~~).

(2) (~~The~~) Issuance of a state of Washington certified plant tag (~~or~~), stamp, or other document under this chapter (~~affirms~~) means only that the tagged (~~or~~), stamped (~~hop rootstock~~), or otherwise documented rootstock or plant stock has been subjected to (~~certification~~) procedures and requirements described in this chapter and determined to (~~determine~~) be in compliance with its standards (~~by the department~~) and requirements. The department disclaims all express or implied warranties, including without limitation (~~;~~) implied warranties of merchantability and fitness for particular purpose, regarding all plants, plant parts, and plant materials under this chapter.

(3) The department is not responsible for disease, genetic disorders, off-type, failure of performance, mislabeling, or otherwise, in connection with this chapter. No grower, nursery dealer, government official (~~;~~) or other person is authorized to give any expressed or implied warranty, or to accept financial responsibility on behalf of the department regarding this chapter.

(4) Participation in the hop rootstock certification program (~~shall be~~) is voluntary.

AMENDATORY SECTION (Amending Order 5083, filed 8/28/95, effective 9/28/95)

**WAC 16-354-010 Definitions.** (~~(1) "Ilar virus" means a grouping of viruses, including Apple Mosaic Virus and Pra-~~

nus Necrotic Ringspot, which share common characteristics including spherical in shape, with genetic material in three different particles and commonly inducing ring spots in hosts.

(2) "Virus-like" means a transmissible disorder of unknown cause.

(3) "Index" means to determine virus infection by means of inoculation from the plant to be tested to an indicator plant or by any other method.

(4) "Foundation rootstock" means slips or rhizomes, cuttings and rooted plants taken from hop stocks established and maintained by Washington State University, that are indexed, and believed to be free from known viruses and which will be genetically uniform. Cuttings or rooted plants, which shall be used to establish certified mother blocks shall be furnished to the applicant for a fee determined by Washington State University.

(5) "Certified mother block" means a planting of hop stocks established from foundation rootstock.

(6) "Certified rootstock" means rootstock produced from certified mother blocks and meeting the requirements as herein provided.

(7) "Verticillium wilt" means the disease caused by *Verticillium albo atrum* Reinke & Berth. or hop strains of this organism.

(8) "Downy mildew and/or black rot" means the disease caused by *Pseudoperonospora humuli* Miy. & Tak., G. W. Wils. Black roots caused by this disease shall not be permitted.

(9) "Powdery mildew" means the disease caused by *Sphaerotheca humuli* (DC) Burrill = *Sphaerotheca macularis* (WALLR.: FR) Lind.

(10) "Crown gall" means the disease caused by *Agrobacterium tumefaciens* E. F. Sm. & Towns., Conn.

(11) "Rootknot nematode" means the nematode *Meloidogyne* sp.

(12) "Hop cyst nematode" means the nematode *Heterodera humuli* Filipjev.

(13) "Crown" means a slip or layered stem cutting with visible buds, that has been grown for one or two years.

(14) "Fairly fresh" means that the roots or cuttings are not excessively wilted.

(15) "Firm" means that the plant parts are not soft or spongy, although they may yield to slight pressure.

(16) "Moist" means that the plant parts are reasonably turgid and not dried to a degree that would affect normal growth.

(17) "Fairly clean" means that the plant parts are not matted or caked with dirt.

(18) "Free from damage caused by mold" means that the plants shall be free from excessive mold or decay. Plants slightly affected by mold shall be allowed.

(19) "Free from damage caused by freezing injury" means that the roots shall be of a normal color and only moderately affected by discolored roots which affect the normal growth of the plant.

(20) "Broken or mutilated rootstock" means the breaking of the root section or splitting of the plant part or other mechanical injury that would affect the normal growth of the plant.

(21) "Department" means the Washington state department of agriculture.

(22) "Director" means the director of the Washington state department of agriculture or the director's authorized representative. (1) "Broken or mutilated rootstock" means the breaking of the root section or splitting of the plant part or other mechanical injury that would affect the normal growth of the plant.

(2) "Certified mother block" means a planting of hop stocks established from foundation rootstock.

(3) "Certified rootstock" means rootstock produced from certified mother blocks and meeting the requirements as herein provided.

(4) "Crown" means a slip or layered stem cutting with visible buds, that has been grown for one or two years.

(5) "Crown gall" means the disease caused by *Agrobacterium tumefaciens* E. F. Sm. & Towns., Conn.

(6) "Department" means the Washington state department of agriculture.

(7) "Director" means the director of the Washington state department of agriculture or the director's authorized representative.

(8) "Downy mildew and/or black rot" means the disease caused by *Pseudoperonospora humuli* Miy. & Tak., G. W. Wils. Black roots caused by this disease shall not be permitted.

(9) "Fairly clean" means that the plant parts are not matted or caked with dirt.

(10) "Fairly fresh" means that the roots or cuttings are not excessively wilted.

(11) "Firm" means that the plant parts are not soft or spongy, although they may yield to slight pressure.

(12) "Foundation rootstock" means planting material taken from hop stocks established and maintained by Washington State University, which are indexed and believed to be free from known viruses. Such stock must, as much as practicable, be genetically uniform.

(13) "Free from damage caused by freezing injury" means that the roots shall be of a normal color and only moderately affected by discolored roots which affect the normal growth of the plant.

(14) "Free from damage caused by mold" means that the plants shall be free from excessive mold or decay. Plants slightly affected by mold shall be allowed.

(15) "Hop cyst nematode" means the nematode *Heterodera humuli* Filipjev.

(16) "Ilar virus" means a grouping of viruses, including Apple Mosaic Virus and Prunus Necrotic Ringspot, which share common characteristics including spherical in shape, with genetic material in three different particles and commonly inducing ring spots in hosts.

(17) "Index" means to determine virus infection by means of inoculation from the plant to be tested to an indicator plant or by any other method.

(18) "Moist" means that the plant parts are reasonably turgid and not dried to a degree that would affect normal growth.

(19) "Powdery mildew" means the disease caused by *Sphaerotheca humuli* (DC) Burrill = *Sphaerotheca macularis* (WALLR.: FR) Lind.

(20) "Rootknot nematode" means the nematode *Meloidogyne* sp.

(21) "Verticillium wilt" means the disease caused by *Verticillium albo-atrum* Reinke & Berth. or hop strains of this organism.

(22) "Virus-like" means a transmissible disorder of unknown cause.

**AMENDATORY SECTION** (Amending Order 5000, filed 8/10/93, effective 9/10/93)

**WAC 16-354-020 Field standards for production of certified hop rootstock.** (1) ~~((Land))~~ Certified rootstock may be produced only from certified mother blocks. In order to be a certified mother block, a proposed hop planting site must meet all of the following requirements:

~~((a) New land (land that has never grown hops), proposed for the establishment of certified mother blocks, shall be approved by the department prior to planting.~~

~~(b) A certified mother block to be eligible for the production of certified rootstock shall be planted in a site that has been out of hop production for three years (poles and trellis removed). The site shall be inspected the season prior to planting. Provided that greenhouse grown certified plants may be planted the same year of site approval, with planting starting on or after August 15th. Sites with residual hop plants or with hop hullings present shall be rejected.~~

~~(c) Hop hullings shall not be spread over proposed planting sites prior to and/or during certified rootstock production.~~

~~(2) Isolation requirements:~~

~~(a) A field to be eligible for production of certified hop rootstock shall be separated by a strip of ground at least twenty one feet in width from any other hop plants.~~

~~(b) A grower of certified hop rootstocks may grow more than one hop variety or strain: *Provided*, That each variety or strain is separated by a hop plant free buffer strip not less than twenty one feet in width.~~

~~(3) Plant requirements:~~

~~(a) Only foundation rootstock shall be planted to establish a certified mother block for the production of certified rootstock.~~

~~(b) Certified mother blocks shall remain in place no more than four growing seasons: *Provided*, That after four years, rootstock to be certified may be moved, if approved by the department after consultation with a Washington State University pathologist, to a new approved site.~~

~~(c) If, during inspection, a male plant is found and that plant has pollinated female hop plants (seeded), the mother block site will be disqualified beginning in the year following discovery of the male plants. For the growing season in which the male plants are detected, the rootstock from that site may be dug and sold as certified while in the dormant stage.~~

~~(d) In roguing, growers shall dig and immediately destroy all low yielding, unhealthy appearing, diseased or otherwise abnormal plants.~~

~~(e) Plant pests and weeds shall be effectively controlled.)) (a) The site must be inspected and approved by the department during the growing season immediately prior to~~

planting. An exception may be made to allow inspection and planting during the same growing season, if exclusively greenhouse grown certified plants are planted on or after August 15th.

(b) The site must have been out of hop production, and all poles and trellis removed, for a minimum of three full growing seasons prior to planting.

(c) The site must be entirely free of residual hop plants or hop hullings.

(d) The site must be separated from any other hop plants by a strip of land at least twenty-one feet wide.

(2) A certified mother block must meet the following requirements:

(a) The certified mother block must consist of no more than one hop variety or strain. Certified mother blocks of different varieties or strains must be separated at all points by a strip of land at least twenty-one feet wide and free of hop plants.

(b) Any material planted in a certified mother block must meet one of the following criteria:

(i) Foundation rootstock produced by Washington State University;

(ii) Rootstock from another certified mother block;

(iii) Growing plants or cuttings from foundation mother plants grown by Washington State University; or

(iv) Growing plants or cuttings from another certified mother block.

(c) Plant material, including rootstock and plants described in (b)(ii) and (iv) of this subsection, may be moved from one certified mother block to another certified mother block site only after appropriate testing by a Washington State University plant pathologist and written approval by the department.

(d) A certified mother block must be kept free of hop hullings at all times.

(e) No certified mother block location may retain certification for more than:

(i) Four consecutive growing seasons, if the certified mother block was produced from rootstock; or

(ii) Five consecutive growing seasons, if the certified mother block was produced from cuttings or growing plants.

(f) If a male plant or pollinated female plant is found during any inspection, the grower may harvest certified rootstock from the certified mother block for the subsequent harvest only. After this harvest, the mother block site must be decertified.

(g) Plant pests and weeds must be effectively controlled.

(h) Growers shall rogue (i.e., dig and remove) and immediately destroy all male, diseased, unhealthy appearing or otherwise abnormal plants. For purposes of assessing disease intensity, an exception may be made for plants exhibiting powdery mildew symptoms.

**AMENDATORY SECTION** (Amending Order 2077, filed 3/27/91, effective 4/27/91)

**WAC 16-354-030 ((Hop rootstock)) Certified mother block inspections.** ~~((1) The first inspection shall be for downy mildew, and other diseases and pests.~~

~~(2) The second inspection, depending on suitable weather conditions, shall be primarily for detection of Ilar viruses, and virus-like diseases.~~

~~(3) The presence of verticillium wilt, detected in any inspection, shall disqualify the field.~~

~~(4) Rootstocks. The planting material (slips or rhizomes, layered stem cuttings, or crowns) shall be inspected at digging and/or at planting time to determine freedom from serious pests:)) (1) A minimum of three inspections per year will be conducted by the department at each certified mother block. Additional inspections may be conducted as needed.~~

~~(2) Timing and inspection methods will vary, depending on weather conditions, the disease or pest being sought, and other factors.~~

~~(3) The first inspection is intended primarily to detect downy mildew, as well as other diseases and pests.~~

~~(4) The second inspection is intended primarily to detect Ilar viruses and virus-like diseases.~~

~~(5) The third inspection is intended primarily to detect powdery mildew, as well as other diseases and pests.~~

~~(6) Inspection reports may contain observations and information on diseases, pests, and other factors for which no specific tolerances are established or which do not affect the certification status of the rootstock or hop plants.~~

~~(7) The presence of verticillium wilt, detected at any time, shall cause immediate decertification of the site. The grower must dig and destroy all affected plants immediately. Affected material may be removed from the site under suitable precautions only by a Washington State University plant pathologist or the department for diagnostic or verification purposes.~~

AMENDATORY SECTION (Amending order 2077, filed 3/27/91, effective 4/27/91)

**WAC 16-354-040 Hop rootstock certification application and fees.** (1) Application for inspection and testing of certified mother blocks and certified stock shall be filed with the department by April 1 of each year accompanied by a seventy-five dollar application fee.

(2) As a condition of participation in the hop rootstock certification program, the applicant grower ((shall)) must furnish to the department all requested information pertinent to the operation of the ((hop rootstock certification)) program and ((shall)) must give ((his/her)) consent to the department to take material from certified mother blocks and/or greenhouses for examination and testing.

~~((2) Application for inspection and testing of certified mother blocks and certified stocks shall be filed with the department by April 1 of each year accompanied by a seventy-five dollar application fee:))~~

(3) Field inspection fees ((shall be)) are sixteen dollars for each acre per inspection with a minimum fee of eighty dollars for five acres or less per inspection.

(4) Fees for inspection of harvested rootstock for grade, phytosanitary certification, or other purposes are assessed at the appropriate rate established in WAC 16-401-025.

(5) Payment for each inspection ((of certified mother blocks and nursery stock for registration and certification shall be made)) is due upon completion of the inspection.

~~Billing ((to the nursery stock grower shall)) may be ((made by the plant services division)) arranged subject to department policies and processes.~~

AMENDATORY SECTION (Amending Order 1897, filed 7/16/85)

**WAC 16-354-050 Hop rootstock ((tagging)) tags and identity.** (1) ~~((Tagging. The department shall issue a certificate covering hop rootstock that meets the requirements of the hop rootstock certification program and authorize the use of official certification tags for the identification of such rootstock:))~~ Application for inspection and testing of certified mother blocks and certified stock shall be filed with the department by April 1 of each year accompanied by a seventy-five dollar application fee.

~~(2) ((Identity:)) Any person selling ((certified)) or offering for sale hop rootstock ((shall be)) bearing a certification tag or otherwise identified as certified is responsible for the ((identity of the stock bearing each tag and for the stock meeting the requirements of the hop rootstock certification program:)) following:~~

~~(a) Accurately identifying the rootstock as to variety and year of harvest;~~

~~(b) Accurately identifying the rootstock as complying with all of the conditions of the certified hop rootstock program.~~

~~(3) Any person((s)) issued ((tags authorized by the certification program shall account for stock produced and sold, and keep records as may be necessary. Containers for hop rootstocks shall be new)) certification tag(s) must keep written records of stock produced and sold. These records must be produced at the request of the department.~~

AMENDATORY SECTION (Amending Order 5083, filed 8/28/95, effective 9/28/95)

**WAC 16-354-070 Hop rootstock field standards.** (1) The unit of certification ((shall be the entire lot within the field standing at the time of inspection)) is the entire certified mother block.

(2) ((Specific requirements. (Percentage tolerances))) Each entire certified mother block may have no more than the following percent of affected plants:

	((Certified)) Tolerance
Downy mildew	1%
Visible nematode((s-(visible))) damage	1%
Verticillium wilt	0
Ilar viruses	0
((Powdery mildew	0))

AMENDATORY SECTION (Amending Order 2077, filed 3/27/91, effective 4/27/91)

**WAC 16-354-100 Hop rootstock tolerances.** (1) In order to allow for variations incident to proper grading and

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packing, not more than a combined total of six percent, by count, of the rootstocks in any lot shall fail to meet the requirements of Washington No. 1, and not more than six percent of the rootstock shall have rhizomes or layered stem cuttings less than five inches in length.

(2) In order to insure lot uniformity, no individual container within a lot may contain more than one and one-half times the established tolerance.

(3) Hop plants shall be packed to retain a fresh condition.

(4) The department may inspect rootstock from certified mother blocks after harvest and packing for the purpose of verifying that it meets grades and standards established in rule.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-354-002 Promulgation.

#### WSR 98-09-052

##### PERMANENT RULES

#### STATE BOARD OF EDUCATION

[Filed April 16, 1998, 10:55 a.m.]

Date of Adoption: January 29, 1998.

Purpose: To eliminate nonapplicable WAC 180-33-025(3), referencing vocational-technical institutes and amend WAC 180-33-025(2), to eliminate interpretive conflicts in determining space eligibility for modernization projects.

Citation of Existing Rules Affected by this Order: Amending WAC 180-33-025 Space eligible for state financial assistance in modernization.

Statutory Authority for Adoption: RCW 28A.525.020.

Adopted under notice filed as WSR 98-01-192 on December 23, 1997.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 16, 1998

Larry Davis  
Executive Director

AMENDATORY SECTION (Amending WSR 94-13-020, filed 6/3/94, effective 7/4/94)

**WAC 180-33-025 Space eligible for state financial assistance in modernization.** Space allowance and enrollment projection provision for state matching purposes.

(1) In planning for modernization in any school facility, under the provisions of WAC 180-33-015 (1)(a) and (b), a school district shall estimate capacity needs on the basis of a cohort survival enrollment as per WAC 180-27-045. Any space above and beyond a school district's estimated capacity needs as calculated on the basis of a five-year cohort survival or adjusted cohort survival enrollment shall not be eligible for state financial assistance in modernization with the exception as stated in subsection (2) below.

(2) In computing the amount of eligible space for modernization, the state will match the entire facility if 3/4 of the overall square footage of the ~~((facility))~~ school district's facilities is eligible for state financial assistance. If less than 3/4 of the overall square footage of the ~~((facility))~~ school district's facilities is eligible for state financial assistance, the district shall pay the entire cost of modernizing any additional space: *Provided*, That this subsection shall not be applicable to new construction in lieu of modernization facility projects authorized by this chapter.

(3) ~~((In determining the eligible space for modernizing vocational-technical institutes, enrollment data furnished by the school district will be reviewed by the superintendent of public instruction or his or her designee.~~

~~(4))~~ In planning for modernization in any combined facility as per WAC 180-33-015 (3)(c) a school district shall estimate enrollment in the district on the basis of a cohort survival enrollment as per WAC 180-27-045.

#### WSR 98-09-059

##### PERMANENT RULES

#### DEPARTMENT OF RETIREMENT SYSTEMS

[Filed April 17, 1998, 11:40 a.m.]

Date of Adoption: April 16, 1998.

Purpose: The rules codify the department's interpretation of the term "earnable compensation" for PERS Plan 1 and Plan 2 as found in RCW 41.40.010(8). Technical correction to the TRS earnable compensation rules adopted at WSR 97-03-016.

Citation of Existing Rules Affected by this Order: Repealing WAC 415-108-450, 415-108-460, 415-108-490; and amending WAC 415-108-010, 415-112-445, 415-112-4608, and 415-112-4609.

Statutory Authority for Adoption: RCW 41.50.050.

Adopted under notice filed as WSR 98-01-069 on December 11, 1997.

Changes Other than Editing from Proposed to Adopted Version: WAC 415-108-010 was amended to clarify that annual leave was for the purpose of taking regularly scheduled work off with pay. WAC 415-108-450, 415-108-460, and 415-108-490 are repealed and rewritten in WAC 415-108-443 through 415-108-488.

WAC 415-108-491 clarifies how to calculate an imputed salary for periods of unpaid leave.

WAC 415-112-445, 415-112-4608 and 415-112-4609 are making technical corrections.

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 28, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 28, 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.

April 16, 1998

John F. Charles

Director

absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.

## REPORTABLE COMPENSATION

### NEW SECTION

**WAC 415-108-441 Purpose and scope of compensation earnable rules.** WAC 415-108-443 through 415-108-488 codify the department's existing interpretation of statutes and existing administrative practice regarding classification of payments as compensation earnable in PERS Plan I and PERS Plan II. The department has applied and will apply these rules to determine the proper characterization of payments occurring prior to the effective dates of these sections.

### NEW SECTION

**WAC 415-108-443 Reportable compensation table.** The following table is provided as a quick reference guide to help you characterize payments under Plan I and Plan II. Be sure to turn to the referenced rule to ensure that you have correctly identified the payment in question. The department determines compensation earnable based upon the nature of the payment, not the name applied to it, see WAC 415-108-445.

**AMENDATORY SECTION** (Amending WSR 95-16-053, filed 7/25/95, effective 8/25/95)

**WAC 415-108-010 Definitions.** ~~((1))~~ All definitions in RCW 41.40.010 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.40 RCW are defined in this chapter.

~~((2) As used in this chapter, unless a different meaning is plainly required by the context:~~

~~"Annual leave" means leave provided by an employer for the purpose of vacation and does not include leave for illness, personal business if in addition to and different than vacation leave, or other paid time off from work: *Provided, however,* That if an employer authorizes only one type of leave to provide paid leave for vacation and illness as well as any other excused absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.)~~

### NEW SECTION

**WAC 415-108-0110 Reportable compensation—Definition.** "Reportable compensation" means compensation earnable as that term is defined in RCW 41.40.010(8).

### NEW SECTION

**WAC 415-108-0111 Annual leave—Definition.** "Annual leave" means leave provided by an employer for the purpose of taking regularly scheduled work time off with pay. Annual leave does not include leave for illness, personal business if in addition to and different than vacation leave, or other paid time off from work: *Provided, however,* That if an employer authorizes only one type of leave to provide paid leave for vacation and illness as well as any other excused

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Type of Payment	PERS I Reportable Compensation?	PERS II Reportable Compensation?
Annual Leave Cash Outs	Yes - WAC 415-108-456	No - WAC 415-108-456
Assault Pay (State Emp.)	Yes - WAC 415-108-468	Yes - WAC 415-108-468
Base Rate	Yes - WAC 415-108-451	Yes - WAC 415-108-451
Car Allowances	No - WAC 415-108-485 <sup>1</sup>	No - WAC 415-108-485
Cafeteria Plans	Yes - WAC 415-108-455	Yes - WAC 415-108-455
Deferred Wages	Yes - WAC 415-108-459	Yes - WAC 415-108-459
Disability Payments	No - WAC 415-108-477	No - WAC 415-108-477
Disability: Salary lost while on disability leave	Yes - WAC 415-108-468 RCW 41.40.038	Yes - WAC 415-108-468 RCW 41.40.038
Employer Provided Vehicle	No - WAC 415-108-480 <sup>2</sup>	No - WAC 415-108-480
Employer taxes/contributions	No - WAC 415-108-459	No - WAC 415-108-459
Fringe Benefits	No - WAC 415-108-475	No - WAC 415-108-475
Illegal Payments	No - WAC 415-108-482	No - WAC 415-108-482
Legislative Leave	Yes - WAC 415-108-464	Yes - WAC 415-108-464
Longevity/Education Attainment Pay	Yes - WAC 415-108-451	Yes - WAC 415-108-451
Nonmoney Maintenance	Yes - WAC 415-108-470 <sup>3</sup>	No - WAC 415-108-470
Optional Payments	No - WAC 415-108-483	No - WAC 415-108-483
Payments in Lieu of Excluded Items	No - WAC 415-108-463	No - WAC 415-108-463
Performance Bonuses	Yes - WAC 415-108-453	Yes - WAC 415-108-453

<sup>1</sup>A portion of the value of an employer car allowance may be reportable, see WAC 415-108-485

<sup>2</sup>A portion of the value of an employer provided vehicle may be reportable in Plan I only, see WAC 415-108-480.

<sup>3</sup>A portion of the value of nonmoney maintenance provided may be reportable in Plan I only, see WAC 415-108-470.



Type of Payment	PERS I Reportable Compensation?	PERS II Reportable Compensation?
Retroactive Salary Increase	Yes - WAC 415-108-457	Yes - WAC 415-108-457
Reimbursements	No - WAC 415-108-484	No - WAC 415-108-484
Reinstatement Payments	Yes - WAC 415-108-467	Yes - WAC 415-108-467
Retirement or Termination Bonuses	No - WAC 415-108-487	No - WAC 415-108-487
Severance Pay - Earned Over Time	Yes - WAC 415-108-458	No - WAC 415-108-458
Severance Pay - Not Earned Over Time	No - WAC 415-108-488	No - WAC 415-108-488
Shared Leave - State Emp.	Yes - WAC 415-108-468	Yes - WAC 415-108-468
Shared Leave - Local Government Employees	No - WAC 415-108-468	No - WAC 415-108-468
Sick Leave Cash Outs - State Employees	No - WAC 415-108-456	No - WAC 415-108-456
Sick Leave Cash Out - Local Government Employees	Yes - WAC 415-108-456	No - WAC 415-108-456
Standby Pay	Yes - WAC 415-108-469	Yes - WAC 415-108-469
Time Off with Pay	Yes - WAC 415-108-456 WAC 415-108-465	Yes - WAC 415-108-456 WAC 415-108-465
Union Leave <sup>4</sup>	Yes - WAC 415-108-466	Yes - WAC 415-108-466
Worker's Compensation	No - WAC 415-108-479	No - WAC 415-108-479

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<sup>4</sup> Only specific types of union leave are reportable, see WAC 415-108-466.

NEW SECTION

**WAC 415-108-445 What compensation can be reported?** In order for payments to be subject to retirement system contributions and included in the calculation of a member's retirement benefit, those payments must meet the definition of compensation earnable in RCW 41.40.010(8).

(1) **Payments for personal services rendered.** To determine whether a payment meets this definition and can be reported, ask the following questions:

(a) Was the payment earned as a salary or wage for personal services rendered during a fiscal year? If the answer is no, the payment is not reportable. If the answer is yes, ask question (b).

(b) Was the payment paid by an employer to an employee? If the answer is no, the payment is not reportable. If the answer is yes, report the payment.

(2) **Payments included that are not for personal services rendered.** The legislature has included certain specific payments within the definition of compensation earnable even though those payments are not for personal services rendered by the employee to the employer. (See WAC 415-108-464 through 415-108-469.)

(3) **Reportable compensation is earned when the service is rendered, rather than when payment is made.**

Example: If a member works during June but does not receive payment for the work until July, the reportable compensation was earned during June and must be reported to the department as June earnings.

(4) **Salary characterizations are based upon the nature of the payment.** A payment is reportable compensation if it meets the criteria of subsection (1) or (2) of this section. The name given to the payment or the document authorizing it is not controlling in determining whether the payment is reportable compensation. The department determines whether a payment is reportable compensation by considering:

(a) What the payment is for; and

(b) Whether the reason for the payment brings it within the statutory definition of compensation earnable.

Example: A payment conditioned upon retirement is not reportable compensation. Attaching the label "longevity" to the payment does not change the fact that the payment is conditioned on retirement. Such a payment is not for services rendered and will not be counted as reportable compensation despite being identified by the employer as a longevity payment.

(5) **Differences in reportable compensation between plans.** WAC 415-108-445 through 415-108-488 define reportable compensation for each of the two PERS plans. "Compensation earnable" is defined in very similar terms for both PERS Plan I and PERS Plan II. The characterization of payments as reportable compensation or not reportable compensation in WAC 415-108-455 through 415-108-488 is the same for both PERS Plan I and PERS Plan II except as specifically noted.

NEW SECTION

**WAC 415-108-451 Salary or wages.** Most employees receive a base rate of salary or wages expressed as an hourly or monthly rate of pay. This payment is for services rendered and qualifies as reportable compensation. Two possible components of an employee's base rate are salary considerations based on longevity or educational attainment.

(1) A member who receives a salary increase based upon longevity or educational attainment receives a higher salary without working more hours. The higher salary indicates a higher level of performance due to greater experience or more education. The payment is therefore a payment for personal service and is reportable compensation.

(2) Simply attaching the label "longevity" to a payment does not guarantee that it will be reportable compensation. If a payment described as a longevity payment is actually based upon some other criteria, such as retirement or notification of intent to retire, the payment may not be reportable.

NEW SECTION

**WAC 415-108-453 Performance bonuses.** Bonuses that are based upon meeting certain performance goals are earned for services rendered and are reportable compensation. If a bonus was earned over a specified period of time it should be prorated for reporting purposes.

Example: An employer pays each employee in the work group an additional \$100 if the work group had no work related accidents in the preceding year. Remaining accident free is a performance goal. Therefore the payment is for services rendered and qualifies as reportable compensation. The bonus should be prorated over each of the preceding twelve months during which it was earned.

NEW SECTION

**WAC 415-108-455 Cafeteria plans.** Compensation received in any form under the provisions of a "cafeteria plan," "flexible benefits plan," or similar arrangement pursuant to section 125 of the United States Internal Revenue Code is reportable compensation if the employee has an absolute right to receive cash or deferred cash payments in lieu of the fringe benefits offered. In such an instance, the fringe benefits are being provided in lieu of cash and are considered reportable compensation, just as the cash would be. If there is no cash option, the value of the fringe benefit is not a salary or wage and is not reportable compensation, see WAC 415-108-475.

NEW SECTION

**WAC 415-108-456 Leave payments earned over time.** (1) **Sick and annual leave usage.** Sick leave and annual leave is accumulated over time and paid to a person during a period of excused absence. Leave accrues at a prescribed rate, usually a certain number of hours per month. The employee earns a leave day by rendering service during the month the leave accrued. When the employee uses his or

her accrued leave by taking a scheduled work day off with pay, the payment is deferred compensation for services previously rendered. The payment is a salary or wage earned for services rendered and is reportable.

(2) **Annual leave cash outs.** Annual leave cash outs, like payments for leave usage, are deferred compensation earned for services previously rendered. Whether, and to what extent an annual leave cash out qualifies as reportable compensation depends upon which PERS plan the member belongs to and the type of employer.

(a) Annual leave cash outs are not reportable compensation for PERS Plan II members. Although the payments are for services rendered, they are excluded from the definition of compensation earnable by statute, see RCW 41.40.010 (8)(b).

(b) A cash out of up to thirty days of annual leave for state government employees is reportable compensation for PERS Plan I, see RCW 43.01.040. A cash out in excess of thirty days of annual leave:

(i) Qualifies as reportable compensation if it is authorized by a letter of necessity under RCW 43.01.040. Annual leave qualifies as authorized under a letter of necessity only if the leave was earned after the letter of necessity was issued;

(ii) Does not qualify as reportable compensation if it is earned between the date that the member accrued thirty days of annual leave and the member's anniversary date under RCW 43.01.044.

(c) All annual leave cash outs received by PERS Plan I members who are not state employees qualify as reportable compensation.

(3) **Sick leave cash outs.** Sick leave cash outs are deferred compensation for services previously rendered.

(a) Sick leave cash outs are excluded from the definition of compensation earnable for PERS Plan II members by statute, see RCW 41.40.010 (8)(b).

(b) Sick leave cash outs are reportable compensation for PERS Plan I members other than state, school district, and educational service district employees.

(c) Sick leave cash outs are excluded from reportable compensation for:

(i) State employees by RCW 41.04.340;

(ii) School district employees by RCW 28A.400.210; and

(iii) Educational service district employees by RCW 28A.310.490.

See RCW 41.40.010 (8)(a).

#### NEW SECTION

**WAC 415-108-457 Retroactive salary increases.** A retroactive salary payment to an employee who worked during the covered period is a payment of additional salary for services already rendered.

Note: A retroactive salary increase is not the same as a retroactive payment upon reinstatement or in lieu of reinstatement of a terminated or suspended employee. For treatment of back payments for periods where services were not rendered, see WAC 415-108-467.

(1) To qualify as reportable compensation under this section, the payment must be a bona fide retroactive salary increase. To ensure that is the case, the retroactive payment must be made pursuant to:

(a) An order or conciliation agreement of a court or administrative agency charged with enforcing federal, state, or local statutes, ordinances, or regulations protecting employment rights;

(b) A bona fide settlement of such a claim before a court or administrative agency;

(c) A collective bargaining agreement; or

(d) Action by the personnel resources board which expressly states the payments are retroactive.

(2) The payments will be deemed earned in the period in which the work was done.

#### NEW SECTION

##### **WAC 415-108-458 Severance pay earned over time.**

(1) **Plan I.** Severance pay must be earned over time in the same manner as annual leave or sick leave in order to be deferred compensation for services previously rendered and to be reportable in Plan I. Severance pay is earned over time if the employment contract(s) or compensation policies in effect at the beginning of a given period of employment specify that a certain amount of severance pay will be earned during that period in consideration for services rendered.

Example: Mr. Jones is a PERS Plan I member employed as a city manager. Since the beginning of his term of employment with the city, his contract has specified that he will earn one week of severance pay for every year of his employment. The earned severance pay will be paid at the time of his separation. His severance pay is reportable compensation. When Mr. Jones retires, the two weeks severance pay that he earned during his two highest paid years (i.e., one week per year for two years) will be included in his PERS Plan I retirement calculation.

To the extent that severance pay qualifies as reportable compensation and is earned within the member's average final compensation period, the severance pay is excess compensation, see RCW 41.50.150.

(2) **Plan II.** All forms of severance pay are excluded from earnable compensation for Plans II by RCW 41.40.010 (8)(b).

(3) Severance pay that is not earned over time is not earned for services rendered and is not reportable in Plan I or II, see WAC 415-108-488.

#### NEW SECTION

**WAC 415-108-459 Payroll deductions.** Salary or wages for services rendered that are withheld from a member's pay still qualify as reportable compensation.

(1) **Retirement contributions.** Payments deducted from employee compensation for employee retirement contributions are reportable. Employer contributions are a fringe benefit and are not reportable, see WAC 415-108-475.

(2) **Tax withholding.** Payments withheld to satisfy federal tax obligations qualify as reportable compensation.

(3) **Voluntary deductions.** Payments deducted voluntarily, such as I.R.C. section 457 plan contributions or other authorized deductions, are reportable.

#### NEW SECTION

**WAC 415-108-463 Payments not for services rendered.** In general, payments cannot be reported to the retirement system unless they are for services rendered. However, the legislature has identified some types of compensation which are reportable even though they are not for services rendered.

(1) WAC 415-108-464 through 415-108-469 discuss all payments that are not for services rendered that nonetheless qualify as reportable compensation.

(2) WAC 415-108-475 through 415-108-488 discuss some payments that are not a salary or wage for services rendered and so do not qualify as reportable compensation. A payment not for services rendered other than those identified in WAC 415-108-464 through 415-108-469 is not reportable compensation even if it is not listed in WAC 415-108-475 through 415-108-488.

(3) A payment made in lieu of a payment that is not for services rendered (such as a payment made in lieu of a car allowance) will be treated in the same way that the original payment was treated. Such a payment is not for services rendered and is not reportable.

#### NEW SECTION

**WAC 415-108-464 Legislative leave.** If a PERS member takes a leave without pay from an eligible position to serve in the legislature, the member may elect to participate in PERS as a legislator.

(1) **Plan I.** The salary the employee would have earned from their employer is reportable compensation if the required member contribution is paid by the member and the required employer contribution is paid by the member or the employer.

(2) **Plan II.** The employee may choose between:

(a) The reportable compensation he or she would have earned had the member not served in the legislature; or

(b) The actual reportable compensation for nonlegislative public employment and the legislative service combined.

If the member selects option (a) of this subsection, he or she is responsible for paying the additional employer and employee contributions to the extent the reportable compensation reported is higher than it would have been under (b) of this subsection.

#### NEW SECTION

**WAC 415-108-465 Paid leave not earned over time.** If paid leave is not based upon earned leave accumulated over time, the payment is not a deferred payment for services previously rendered. Further, the member on leave is not currently rendering services in exchange for the payment. However, RCW 41.40.175 and 41.40.710 identify payments

received from the employer while on paid leave as reportable for PERS. Contributions are due on these payments to the extent they meet the following conditions:

(1) The payment is equal to the salary for the position that the person is on leave from;

(2) The payment is actually from the employer. Payments from an employer that are conditioned upon reimbursement from a third party are payments from the third party. Because the payments are not from the employer, they are not reportable compensation. The only exception is union leave paid by the employer subject to reimbursement from the union under the conditions specified in RCW 41.40.175 (Plan I) and RCW 41.40.710 (Plan II) and WAC 415-108-466.

#### NEW SECTION

**WAC 415-108-466 Union leave.** If a member takes an authorized leave of absence to serve as an elected official of a labor organization and the employer pays the member on leave subject to reimbursement from the union, the person's pay qualifies as reportable compensation provided that all the conditions of RCW 41.40.175 (Plan I) or RCW 41.40.710 (Plan II) as appropriate, are met.

#### NEW SECTION

**WAC 415-108-467 Reinstatement or payment in lieu of reinstatement.** If an employer makes payments to an employee for periods where the employee was not employed and those payments are made upon reinstatement of the employee or in lieu of reinstatement, the payments are not earned for services rendered. However, RCW 41.40.010(8) specifically designates such payments as reportable compensation. The payments are only reportable to the extent that they are equivalent to the salary the employee would have earned had he or she been working.

#### NEW SECTION

**WAC 415-108-468 Compensation authorized by statute for periods of absence due to sickness or injury.** Compensation that a member receives for periods of absence due to sickness or injury are not payments for services rendered unless the payments are authorized pursuant to sick leave earned by the member for services rendered, see WAC 415-108-456. Certain specific types of payments for periods of absence due to sickness or injury have been included within the statutory definition of compensation earnable and therefore qualify as reportable compensation.

(1) **Assault pay** qualifies as reportable compensation only to the extent authorized by RCW 27.04.100, 72.01.045, and 72.09.240.

(2) **Imputed compensation for periods of duty disability** that a member would have received but for a disability occurring in the line of duty qualify as reportable compensation only to the extent authorized by RCW 41.40.038.

(3) **Shared leave.**

(a) Compensation that a state employee receives due to participation in a leave sharing program to the extent autho-

ized by RCW 41.04.650 through 41.04.670 qualifies as reportable compensation.

(b) Shared leave payments received by members who are not state employees, do not qualify as reportable compensation. Such payments are not for services rendered, nor are they specifically included within the statutory definition of compensation earnable.

#### NEW SECTION

**WAC 415-108-469 Standby pay.** Some employers pay employees for being on "standby." A member is on standby when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work if the need arises, although the need may not arise. Because the member is not actually working, the member is not rendering service. However, RCW 41.40.010(8) specifically identifies standby pay that meets the above requirements as reportable compensation. Although included in the definition of compensation earnable, time spent on standby is excluded from the definition of "service," see RCW 41.40.010(9).

#### NEW SECTION

**WAC 415-108-475 Fringe benefits.** Payments made by an employer to a third party to provide benefits for an employee are not part of the employee's salary or wage. Those payments are not reportable compensation. Examples of these types of payments are insurance premiums (other than those made under bona fide cafeteria plans, see WAC 415-108-455) and employer retirement contributions.

Note: Mandatory salary deferrals are salary, not benefits. Such payments are reportable see WAC 415-108-459.

#### NEW SECTION

**WAC 415-108-477 Disability insurance.** Disability insurance payments are paid to persons for periods when they are unable to work. Because no services are rendered in exchange for these payments, they are not reportable compensation. This is true whether the payments come directly from the employer or from an insurance company.

#### NEW SECTION

**WAC 415-108-479 Workers' compensation.** Workers' compensation is paid to persons for periods when they are unable to work. Workers' compensation payments, like disability insurance, are not payments for services rendered and are not reportable compensation.

Example: Some employees on unpaid disability leave submit their workers' compensation payments to their employer who then issues the employee a check for the same amount through the payroll system. This exchange of payments does not change the character of the workers' compensation payment. Whether the payments come from the department of labor and indus-

tries, a self-insured employer, or have the appearance of coming from the employer, workers' compensation payments are not payments for services rendered and do not qualify as reportable compensation.

Note: A member may elect to make contributions and receive service credit for periods of disability covered by industrial insurance, see RCW 41.40.038.

#### NEW SECTION

**WAC 415-108-482 Illegal payments.** Payments made by an employer in excess of the employer's legal authority are not reportable.

Example: School districts are prohibited from increasing an employee's salary to include a payment in lieu of a fringe benefit per RCW 28A.400.220. If a district increased a person's salary instead of providing a fringe benefit, the payment would be illegal and should not be reported.

#### NEW SECTION

**WAC 415-108-483 Optional payments.** If an employee can receive an additional payment only on the condition of taking an action other than providing service to the employer, the payment is not for services rendered and is not reportable compensation.

Example: An employer offers to make a contribution to a deferred compensation plan on behalf of an employee only if the employee agrees to defer a portion of his or her salary. Because the employee does not have a right to receive the contribution based solely on the rendering of service, the employer payment is not reportable compensation.

#### NEW SECTION

**WAC 415-108-484 Reimbursements for expenses.** Reimbursements are not earned for services rendered and thus are not reportable compensation. Typical reimbursement payments include mileage reimbursements for use of a private car on employer business, see WAC 415-108-485, or meal and lodging reimbursements for business trips.

#### NEW SECTION

**WAC 415-108-487 Retirement bonus or incentive.** A payment made to an employee as a bonus or incentive when retiring or terminating is not a payment for services rendered. Rather, the payment is made in exchange for an employee's promise or notification of intent to retire or terminate. A retirement or termination bonus or incentive is not reportable compensation.

Example: A collective bargaining agreement authorizes a city to pay employees a higher salary during the last two years of employment if the employee

gives written notice of his or her intent to retire or terminate. Because the payment is in exchange for the agreement to retire or terminate and not for services, the payment is not reportable compensation.

WAC 415-108-450

Compensation earnable for Plan I PERS members.  
Compensation earnable for plan II PERS members.  
Back pay award or settlement—Definition—Allocated by the department for retirement system purposes.

WAC 415-108-460

WAC 415-108-490

NEW SECTION

**WAC 415-108-488 Severance pay not earned over time—Contract buy outs.** Severance pay that is not earned over time is not earned for services rendered and is not reportable. An example of severance pay not earned over time is a payment negotiated as part of termination agreement.

Example: At the time of an employee's termination the employer agrees to pay a lump sum payment equal to two months salary. The employer identifies this payment as "severance pay." Because the payment was not earned for services rendered, it is not reportable compensation and will not be included in the retirement calculation.

For treatment of severance pay earned over time, see WAC 415-108-458.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

**WAC 415-112-445 Reportable compensation table.** The following table is provided as a quick reference guide to help you characterize payments under Plan I, Plan II and Plan III. Be sure to turn to the referenced rule to ensure that you have correctly identified the payment in question. The department determines (~~basic salary~~) earnable compensation based upon the nature of the payment, not the name applied to it, see WAC 415-112-450.

NEW SECTION

**WAC 415-108-491 Salary imputed to periods of unpaid leave.** In some circumstances specified in statute, a member may elect to establish service credit for periods of unpaid leave. The salary imputed to a member for purposes of calculating contributions owing for such periods of leave is not reportable compensation. Depending on the type of leave, the imputed compensation may or may not be included as average final compensation in calculating a member's retirement allowance.

(1) **Authorized unpaid leave.** RCW 41.40.710 provides Plan II members with an option to establish service credit for periods of unpaid leave. RCW 41.40.038 provides members with an option to establish service credit for periods of disability covered by industrial insurance. Salary imputed to members in order to calculate contributions for such periods is not reportable compensation and can not be included as average final compensation in calculating a member's retirement allowance.

(2) **Military leave.** Salary imputed to a member for purposes of calculating contributions owing for periods of interrupted military service is not reportable compensation. Federal law requires that if a member elects to purchase credit for such periods of military service, and that period falls in the member's average final compensation period, the member is entitled to have the imputed salary he or she would have earned during the period of absence used in the calculation of his or her average final compensation.

REPEALER

The following sections of the Washington Administrative Code are repealed:

PERMANENT

Type of Payment	TRS I Reportable Compensation?	TRS II/III Reportable Compensation?
Annual Leave Cash Outs	Yes - WAC 415-112-4605	No - WAC 415-112-4605
Base Contract	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Car Allowances	No - WAC 415-112-41301 <sup>1</sup>	No - WAC 415-112-41301
Cafeteria Plans	Yes - WAC 415-112-4604	Yes - WAC 415-112-4604
Deferred Wages	Yes - WAC 415-112-4609	Yes - WAC 415-112-4609
Disability Payments	No - WAC 415-112-482	No - WAC 415-112-482
Employer Provided Vehicle	No - WAC 415-112-413 <sup>2</sup>	No - WAC 415-112-413
Evening/Summer School	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Extracurricular Contracts	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Employer taxes/contributions	No - WAC 415-112-4609	No - WAC 415-112-4609
Fringe Benefits	No - WAC 415-112-480	No - WAC 415-112-480
Illegal Payments	No - WAC 415-112-485	No - WAC 415-112-485
Legislative Leave	Yes - WAC 415-112-471	Yes - WAC 415-112-471
Longevity/Education Attainment Pay	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Nonmoney Maintenance	Yes - WAC 415-112-412 <sup>3</sup>	No - WAC 415-112-412
Optional Payments	No - WAC 415-112-487	No - WAC 415-112-487
Payments in Lieu of Excluded Items	No - WAC 415-112-470	No - WAC 415-112-470
Performance Bonuses	Yes - WAC 415-112-4603	Yes - WAC 415-112-4603
Retroactive Salary Increase	Yes - WAC 415-112-4607	Yes - WAC 415-112-4607

<sup>1</sup>A portion of the value of an employer car allowance may be reportable in Plan I only, see WAC 415-112-41301

<sup>2</sup>A portion of the value of an employer provided vehicle may be reportable in Plan I only, see WAC 415-112-413.

<sup>3</sup>A portion of the value of nonmoney maintenance provided may be reportable in Plan I only, see WAC 415-112-412.

Type of Payment	TRS I Reportable Compensation?	TRS II/III Reportable Compensation?
Reimbursements	No - WAC 415-112-489	No - WAC 415-112-489
Reinstatement Payments	Yes - WAC 415-112-477	Yes - WAC 415-112-477
Retirement or Termination Bonuses	No - WAC 415-112-490	No - WAC 415-112-490
Severance Pay - Earned Over Time	Yes - WAC 415-112-4608	No - WAC 415-112-4608
Severance Pay - Not Earned Over Time	No - WAC 415-112-491	No - WAC 415-112-491
Sick Leave Cash Outs	No - WAC 415-112-4605	No - WAC 415-112-4605
Supplemental Contracts	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601 <sup>4</sup>
Time Off with Pay	Yes - WAC 415-112-473 WAC 415-112-4605	Yes - WAC 415-112-473 WAC 415-112-4605
Union Leave <sup>5</sup>	Yes - WAC 415-112-475	Yes - WAC 415-112-475
Worker's Compensation	No - WAC 415-112-483	No - WAC 415-112-483

<sup>4</sup> Reportable only if member is employed in an eligible position.

<sup>5</sup> Only specific types of union leave are reportable, see WAC 415-112-475.

**AMENDATORY SECTION** (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

**WAC 415-112-4608 Severance pay earned over time.**

(1) **Plan I.** Severance pay must be earned over time in the same manner as annual leave or sick leave in order to be deferred compensation for services previously rendered and to be reportable in Plan I. Severance pay is earned over time if the employment contract(s) entered into at the beginning of the period of employment specify that a certain amount of severance pay will be earned in the coming year in consideration for services rendered.

**Example:** Mr. Jones is a TRS Plan I member employed as a school administrator. Since the beginning of his term of employment with the district, his contract has specified that he will earn one week of severance pay for every year of his employment. The earned severance pay will be paid at the time of his separation. His severance pay is reportable compensation. When Mr. Jones retires, the two weeks severance pay that he earned during his two highest paid

years (i.e., one week per year for two years) will be included in his TRS Plan I retirement calculation.

(2) **Plans II and III.** All forms of severance pay are excluded from earnable compensation for Plans II and III by RCW 41.32.010(10).

(3) Severance pay that is not earned over time is not earned for services rendered and is not reportable in Plan I, II, or III, see WAC 415-112-491.

**AMENDATORY SECTION** (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

**WAC 415-112-4609 ((Payments earned by, but not made to a member.)) Payroll deductions. Salary or wages for services rendered that are withheld from a member's pay still qualify as reportable compensation.**

(1) **Retirement contributions.** Payments deducted from employee compensation for employee retirement contributions are reportable. Employer contributions are a fringe benefit and are not reportable, see WAC 415-112-480.



(2) **Tax withholding.** Payments withheld to satisfy federal tax obligations qualify as reportable compensation.

(3) **Voluntary deductions.** Payments deducted voluntarily, such as 403(b) plan contributions or other authorized deductions, are reportable.

**WSR 98-09-064**  
**PERMANENT RULES**  
**BOARD OF BOILER RULES**  
 [Filed April 20, 1998, 8:35 a.m.]

Date of Adoption: April 20, 1998.

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

Citation of Existing Rules Affected by this Order: Amending WAC 296-104-700.

Statutory Authority for Adoption: RCW 70.79.030 and 70.79.040.

Adopted under notice filed as WSR 98-04-017 on January 27, 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 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 20, 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> <u>26.00</u>	<del>20.00))</del> <u>20.80</u>
All other boilers less than 500 sq. ft.	<del>((30.00))</del> <u>31.20</u>	<del>20.00))</del> <u>20.80</u>

500 sq. ft. to 2500 sq. ft.	<del>((50.00))</del> <u>52.00</u>	<del>25.00))</del> <u>26.00</u>
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	<del>((20.00))</del> <u>20.80</u>	<del>10.00))</del> <u>10.40</u>
Power boilers:	Internal	External
Less than 100 sq. ft.	<del>((25.00))</del> <u>26.00</u>	<del>20.00))</del> <u>20.80</u>
100 sq. ft. to less than 500 sq. ft.	<del>((30.00))</del> <u>31.20</u>	<del>20.00))</del> <u>20.80</u>
500 sq. ft. to 2500 sq. ft.	<del>((50.00))</del> <u>52.00</u>	<del>25.00))</del> <u>26.00</u>
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	<del>((20.00))</del> <u>20.80</u>	<del>10.00))</del> <u>10.40</u>
Pressure vessels:		
Automatic utility hot water supply heaters per RCW 70.79.090		<del>((5.00))</del> <u>5.20</u>
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> <u>20.80</u>	<del>15.00))</del> <u>15.60</u>
15 sq. ft. to less than 50 sq. ft.	<del>((30.00))</del> <u>31.20</u>	<del>15.00))</del> <u>15.60</u>
50 sq. ft. to 100 sq. ft.	<del>((35.00))</del> <u>36.40</u>	<del>20.00))</del> <u>20.80</u>
For each additional 100 sq. ft. or any portion thereof	<del>((10.00))</del> <u>10.40</u>	<del>35.00))</del> <u>36.40</u>
Certificate of inspection fees: For objects inspected, the certificate of inspection fee is <del>\$(15.00))</del> <u>15.60</u> 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> <u>31.20</u>
For each hour or part of an hour in excess of 8 hours		<del>((45.00))</del> <u>46.80</u>

PERMANENT

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 ((45.00)) 46.80  
 For each hour or part of an hour in excess of 8 hours ((70.00)) 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 ((30.00)) 31.20  
 For each hour or part of an hour in excess of 8 hours ((45.00)) 46.80

When insurance company is authorized inspection agency:

For each hour or part of an hour up to 8 hours ((45.00)) 46.80  
 For each hour or part of an hour in excess of 8 hours ((70.00)) 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 98-09-066**  
**PERMANENT RULES**  
**PERSONNEL RESOURCES BOARD**

[Filed April 20, 1998, 9:41 a.m., effective June 1, 1998]

Date of Adoption: April 9, 1998.

Purpose: This modification is housekeeping in nature. It removes inadvertently retained language.

Citation of Existing Rules Affected by this Order: Amending WAC 356-15-060.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 98-06-062 on March 2, 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 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: June 1, 1998.

April 14, 1998  
 Dennis Karras  
 Secretary

AMENDATORY SECTION (Amending WSR 98-06-062 [98-03-052], filed 3/2/98 [1/16/98], effective 4/9/98 [3/1/98])

**WAC 356-15-060 Shift premium provisions and compensation.** (1) Basic shift premium shall be paid in the amount specified in WAC 356-15-061. For purposes of this section, regularly scheduled means the permanently assigned work schedule/work shift, not including overtime hours, as determined by the agency.

(2) For purposes of this section, evening shift is defined as a work shift of eight or more hours which ends at or after 10:00 p.m. Night shift is defined as a work shift of eight or more hours which begins by 3:00 a.m.

(3) Full time employees shall be entitled to basic shift premium under the following circumstances:

(a) Regularly scheduled evening and night shift employees are entitled to shift premium for all hours worked.

(b) Regularly scheduled day shift employees are not entitled to shift premium unless:

(i) The employee's regular or temporary scheduled work-shift includes hours after 6:00 p.m. and before 6:00 a.m. where no overtime, schedule change pay, or call-back compensation is received. Shift premium is paid only for those hours actually worked after 6:00 p.m. and before 6:00 a.m.

(ii) The employee is temporarily assigned a full evening or night shift where no overtime, schedule change pay, or call-back compensation is received. Shift premium is paid only for all evening or night-shift hours worked in this circumstance.

(c) Employees regularly scheduled to work at least one, but not all, evening and/or night shifts are entitled to shift premium for those shifts. Additionally, these employees are entitled to shift premium for all hours adjoining that evening or night shift which are worked.

(4) Part-time and intermittent employees shall be entitled to basic shift premium under the following circumstances:

PERMANENT

(a) For all assigned hours of work after 6:00 p.m. and before 6:00 a.m.

(b) For assigned full evening or night shifts, as defined in subsection (2) of this section.

~~((5)) Employees on contingency schedules do not normally receive shift premium with the exception noted in WAC 356-15-090.~~

~~(6))~~ **(5) Monthly shift premium rates:** In cases where shift premium hours are regularly scheduled over a year, agencies may pay shift premium at a monthly rate which is equal for all months of the year. Such monthly rates shall be calculated by dividing twelve into the amount of shift premium an employee would earn in a year if the hourly rules in subsection (2) of this section were applied. This option is granted to simplify bookkeeping and is not authorized to establish shift premium rates higher or lower than those set by the board.

~~((7))~~ **(6) Shift premium and overtime:** When an employee is compensated for working overtime during hours for which shift premium is authorized in this section, the overtime rate shall be calculated using the "regular rate" as defined in WAC 356-05-353.

~~((8))~~ **(7) Payment during leave and for holidays not scheduled to work:** Employees eligible for shift premium for their regularly scheduled shifts will receive the same proportion of shift premium for respective periods of authorized paid leave and for holidays not worked which fall within their regularly scheduled shift.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 98-09-070**  
**PERMANENT RULES**  
**COUNTY ROAD**  
**ADMINISTRATION BOARD**

[Filed April 20, 1998, 11:33 a.m.]

Date of Adoption: April 9, 1998.

Purpose: Amending WAC 136-130-030, 136-130-040, 136-161-080, 136-161-090, 136-200-040, 136-210-030, 136-220-020, 136-220-030, Title 136 WAC, the rural arterial program.

Citation of Existing Rules Affected by this Order: Amending Title 136 WAC.

Statutory Authority for Adoption: Chapter 36.79 RCW.

Adopted under notice filed as WSR 98-06-045 on February 27, 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 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 15, 1998

Eric A. Berger

Executive Director

AMENDATORY SECTION (Amending Order 88, filed 6/10/92, effective 7/11/92)

**WAC 136-130-030 Project prioritization in Puget Sound region (PSR).** Each county in the PSR may submit projects requesting RATA funds not to exceed ~~(((\$500,000 per project))~~ 80% of the regional allocation total. Each project shall be rated in accordance with the PSR RAP rating procedures. The PSR biennial apportionment shall have a minimum of 25% of the regional allocation committed to projects on roads classified as major collectors (07) or minor collectors (08).

PSR RAP rating points shall be assigned on the basis of 20 points for traffic volume, 25 points for accident history, 15 points for structural condition, 25 points for geometric condition, and 15 points for special use and need. Prioritization of PSR projects shall be on the basis of total PSR RAP rating points shown on the project worksheet and the prospectus form of the project application.

AMENDATORY SECTION (Amending WSR 96-17-013, filed 8/12/96, effective 9/12/96)

**WAC 136-130-040 Project prioritization in north-west region (NWR).** Each county in the NWR may submit projects requesting RATA funds not to exceed \$500,000 per project and 50% of the regional allocation total. No bridge replacement projects will be funded. Each project shall be rated in accordance with the NWR RAP rating procedures. NWR RAP rating points shall be assigned on the basis of 40 points for structural condition, 40 points for geometrics, 10 points for traffic volume, 10 points for traffic accidents ~~((and)),~~ 5 points for any project on a major collector (07), and 10 points for any project on a rural principle arterial (02) or a rural minor arterial (06). Prioritization of NWR projects shall be on the basis of total NWR RAP rating points shown on the project worksheet and the prospectus form of the project application.

AMENDATORY SECTION (Amending WSR 96-17-013, filed 8/12/96, effective 9/12/96)

**WAC 136-161-070 RAP program cycle—Selection and approval of projects for RATA funding.** (1) At its last regular meeting before the beginning of each biennium, the CRABoard will select projects and allocate anticipated RATA funds to projects in each region. The preliminary priority arrays as developed in WAC 136-161-060 will be updated to exclude any county which is ineligible under chapter 136-150 WAC, and projects will be selected from

these arrays. Selections will be made in each region in declining priority rank order, provided that:

(a) No county shall be allocated RATA funds in excess of its regional county limit as specified in WAC 136-161-080; and

(b) Any projects which were partially funded in the prior biennium shall, unless otherwise requested by the county, be fully funded before new projects are selected. Ties in total rating points will be broken by the CRABoard in favor of the county having the lesser total amount of previously allocated RATA funds.

(2) The state-wide net amount of RATA funds available for allocation to projects in the project program period will be based on the most recent state fuel tax revenue forecast prepared quarterly by the department of transportation, less estimated administrative costs (~~(, and less any amounts set aside for emergent projects as described in WAC 136-161-100)~~). The total amount of RATA funds available for allocation to projects in a region (i.e., "forecasted regional apportionment amount") will be based on the regional apportionment percentages of the statewide net amount as determined in chapter 136-110 WAC.

(3) For the biennium beginning July 1, 1995, the project program period will be the next four state fiscal years (1996, 1997, 1998 and 1999, beginning July 1, 1995, and ending June 30, 1999). For the biennium beginning July 1, 1997, the project program period will begin July 1, 1999 and end June 30, 2001. For each biennium thereafter, the project program period will be two years in length, beginning and ending two years later than the preceding project program period.

(4) The RATA amounts allocated to projects in the first year of the biennium are limited to 90% of the net amount estimated to be available to each region for the project program period, with the remaining 10% allocated at such time as deemed appropriate by the CRABoard.

(5) Acceptance of the RATA allocation for a project by the full execution of a CRAB/county contract as described in chapter 136-170 WAC constitutes agreement to complete the project in compliance with the scope, design and project limits in the final prospectus. All material changes to the scope, design or project limits must be approved by the CRABoard prior to the commencement of construction.

AMENDATORY SECTION (Amending WSR 94-16-111, filed 8/2/94, effective 9/2/94)

**WAC 136-161-080 Limitations on allocations of RATA funds to counties.** For any project program period, no county shall receive a RATA fund allocation greater than the following maximum project RATA contribution, or percentage of the forecasted regional apportionment amount:

(1) PSR: ~~No maximum project RATA contribution ((is \$500,000; no);~~ 40% limit on percentage of the forecasted regional apportionment amount;

(2) NWR: Maximum project RATA contribution is \$500,000; 25% (~~(limit on percentage of the forecasted regional apportionment amount)~~);

(3) NER: No maximum project RATA contribution; 12.5%;

(4) SWR: No maximum project RATA contribution; 15%;

(5) SER: No maximum project RATA contribution; percentage varies by county as follows:

Asotin County	10%
Benton County	14%
Columbia County	11%
Franklin County	13%
Garfield County	10%
Kittitas County	13%
Klickitat County	14%
Walla Walla County	14%
Yakima County	20%

AMENDATORY SECTION (Amending WSR 94-16-111, filed 8/2/94, effective 9/2/94)

**WAC 136-161-090 Limitations on use of RATA funds.** RATA funds requested and allocated to a project are limited to 80% in the (~~(PSR and)~~) NWR, and 90% in the PSR, SWR, NER and SER, of the total eligible project development costs, which include preliminary engineering and construction costs in all regions, and right of way costs in the PSR, NWR, NER and SER. Even though additional and eligible project development costs may be incurred by a county for a specific project, the maximum amount of RATA funds for that project is limited to the amount allocated and shown in the CRAB/county contract (see chapter 136-170 WAC), unless the allocation is increased pursuant to chapter 136-165 WAC.

AMENDATORY SECTION (Amending WSR 97-24-069, filed 12/2/97, effective 1/2/98)

**WAC 136-200-040 Functional classification verification.** Each RAP project application submitted in accordance with WAC (~~(136-160-020)~~) 136-161-050 shall show the functional classification of the road or roads included in the project. Prior to project approval the CRABoard shall verify that the road on which the RAP project is requested is classified as a rural arterial or collector.

AMENDATORY SECTION (Amending WSR 96-17-013, filed 8/12/96, effective 9/12/96)

**WAC 136-210-030 Deviations from design standards.** Deviation from the specified design standards may be requested by the county engineer in responsible charge of the project when circumstances exist which would make application of adopted standards exceedingly difficult. Whenever a deviation request is to be made on a project, it shall be so noted on the project application submitted in accordance with WAC (~~(136-161-020)~~) 136-161-050. Request for deviation shall be made to the WSDOT assistant secretary for transaid.

PERMANENT

AMENDATORY SECTION (Amending Order 82, filed 11/6/90, effective 12/7/90)

**WAC 136-220-020 Establishment of matching requirements.** Counties will be required to match RATA funds with a minimum of 20% matching funds in the ((PSR and)) NWR and 10% matching funds in the PSR, SWR, NER and SER.

AMENDATORY SECTION (Amending WSR 96-17-013, filed 8/12/96, effective 9/12/96)

**WAC 136-220-030 Use of other funds to match RATA funds.** A county with an approved RAP project may use any other funds available for such project including federal, other state, private and local funds, provided that the county will be required to use such other funds to match any RATA funds allocated to the project with a minimum of 20% other funds in the ((PSR and)) NWR and 10% other funds in the PSR, SWR, NER and SER.

#### WSR 98-09-071

#### PERMANENT RULES

#### DEPARTMENT OF AGRICULTURE

[Filed April 20, 1998, 12:25 p.m.]

Date of Adoption: April 20, 1998.

Purpose: To adopt rules that establish a seed potato isolation district in Whatcom County, limiting commercial potato production within the boundaries to that enrolled in the seed potato certification program.

Statutory Authority for Adoption: Chapter 15.15 RCW.

Adopted under notice filed as WSR 98-05-106 on February 18, 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 5, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 5, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 20, 1998

James M. Jesernig  
Director

#### Chapter 16-325 WAC

#### SEED POTATO ISOLATION DISTRICT

##### NEW SECTION

**WAC 16-325-005 Promulgation—Establishing an isolation district.** The production of high quality seed potatoes within the state requires conditions that are as free as possible from insect pests and plant diseases. The production of other potatoes intermixed with or in close proximity to a concentrated seed potato production area poses an increased risk of introduction of insect pests and plant diseases. To mitigate this problem this chapter establishes a seed potato isolation district requiring commercial potato production within the boundaries to be enrolled in the seed potato certification program.

##### NEW SECTION

**WAC 16-325-010 Definitions.** The definitions in this section shall apply throughout this chapter.

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department of agriculture or a duly appointed representative.

(3) "Potato" means plants or plant parts of *Solanum tuberosum*.

(4) "Seed potatoes" means vegetatively propagated tubers of *Solanum tuberosum* used for propagation or production.

(5) "Seed potato certification program" means the program in which certified seed potatoes are produced, as set forth in Chapter 16-324 WAC.

##### NEW SECTION

**WAC 16-325-015 Regulated area.** The seed potato isolation district consists of that area of Whatcom County lying within the following boundaries:

On the West the boundary follows Interstate 5 from its intersection with Smith Rd., northwesterly to the intersection with Loomis Rd., then from the intersection of Loomis Road and Interstate 5 north along Giles Rd. to its end, continuing north through the center of Range 1 East to the Canadian border.

On the North the boundary follows the Canadian border from its intersection with the center of Range 1 East easterly to South Pass Road.

On the East the boundary follows South Pass Rd. southwesterly to the point where the eastern edge of Range 4 East intersects South Pass Road, then south along the eastern boundary of Range 4 East to the Nooksack River (south of the town of Deming).

On the South the boundary follows the Nooksack River northwesterly to the City of Everson, south from Everson on Mission Road to Smith Road then westerly on Smith Rd to Interstate 5.

PERMANENT

NEW SECTION

**WAC 16-325-020 Regulations for potato production within the seed potato isolation district.** All potato plantings in excess of one acre must be enrolled in the seed potato certification program described in Chapter 16-324 WAC. Affected growers shall be responsible for all associated fees as required in Chapter 16-324.

NEW SECTION

**WAC 16-325-025 Exceptions.** The director may allow the production of potatoes, otherwise prohibited, by special permit. The permit shall specify under what conditions and in what location production will be allowed and must be obtained prior to planting.

**WSR 98-09-085**

## PERMANENT RULES

**DEPARTMENT OF AGRICULTURE**

[Filed April 21, 1998, 3:18 p.m.]

Date of Adoption: April 16, 1998.

Purpose: Pursuant to RCW 34.05.479, the department may use emergency adjudicative proceedings in situations involving an immediate danger to public health, safety and welfare. Situations when an emergency proceeding may be used are provided for in the agency practice and procedure rules chapter 16-08 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 16-08-151.

Statutory Authority for Adoption: Chapter 34.05 RCW.

Other Authority: RCW 34.05.479.

Adopted under notice filed as WSR 98-04-082 on February 4, 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 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 16, 1998

James M. Jesernig  
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 98-09-098**

## PERMANENT RULES

**DEPARTMENT OF ECOLOGY**

[Order 97-40—Filed April 22, 1998, 10:00 a.m.]

Date of Adoption: April 21, 1998.

Purpose: Add Thomas Lake (in Snohomish County) to the list of lakes identified as "shorelines of the state" in WAC 173-20-640.

Citation of Existing Rules Affected by this Order: Amending WAC 173-20-640.

Statutory Authority for Adoption: RCW 90.58.200, the Shoreline Management Act of 1971.

Adopted under notice filed as WSR 97-23-026 on November 14, 1997.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 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.

April 21, 1998

Tom Fitzsimmons

Director

**AMENDATORY SECTION** (Amending Order DE 76-16, filed 5/3/76)

**WAC 173-20-640 Lakes coming under purview of chapter 90.58 RCW—Snohomish County lakes.**

Location	Section	Name	Area (Acres)	Use
(1)	T27N-R4E	1-SW1/4 Martha Lk.	59.3	R
(2)	T27N-R4E	32-SW1/4 Ballinger Lk.	103.2	R
(3)	T27N-R5E	36-SE1/4 Crystal Lk. (Res.)	39.1	R
(4)	T27N-R7E	22-A/B Fontal Lk.	37.2	R
(5)	T27N-R7E	23-SW1/4 Hannan Lk.	48.4	R
(6)	T27N-R8E	21-B/C Tomtit Lk.	27.9	R
(7)	T27N-R8E	21-E/M Dagger Lk.	27.7	R
(8)	T27N-R11E	21-NE1/4 Sunset Lk.	38.4	R
(9)	T28N-R4E	34-S1/2 Serene Lk.	42.3	R
(10)	T28N-R4E	35-A/B Stickney Lk.	25.7	R
(11)	T28N-R5E	24-E1/4 Hanson Slough	35.0	R
(12)	T28N-R5E	30-H Silver Lk.	102.3	R
(13)	<del>T28N-R5E</del>	<del>32&amp;34</del> Thomas Lk.	100	PS
(14)	T28N-R6E	1-SE1/4 Storm Lk.	78.1	R
((14)) (15)	T28N-R6E	2-A Flowing Lk.	134.8	R
((15)) (16)	T28N-R6E	2-C/D Panther Lk.	46.7	R
((16)) (17)	T28N-R6E	7-NW1/4 Blackmans Lk.	60.1	R
((17)) (18)	T28N-R6E	24-A Chain Lk.	22.8	R
((18)) (19)	T28N-R7E	12-J Woods Lk.	20.5	R
((19)) (20)	T28N-R7E	16-A Cochran Lk.	33.6	R
((20)) (21)	T28N-R8E	6-G Chaplain Lk. (Res.)	443.7	PS
((21)) (22)	T28N-R8E	22-G/H Kellogg Lk.	20.2	R
((22)) (23)	T28N-R9E	20-NE1/4 Wallace Lk.	55.3	R
((23)) (24)	T28N-R10E	5-G/H Boulder Lk.	21.7	R
((24)) (25)	T28N-R11E	1-W1/2 Blanca Lk.	179.0	R
((25)) (26)	T29N-R7E	15-NE1/4 Purdy Creek Ponds	20.0	R
((26)) (27)	T29N-R7E	27-N/P Hughes Lk.	20.2	R

Location	Section	Name	Area (Acres)	Use
((27)) (28)	T29N-R7E	28-E Roesiger Lk.	352.2	R
((28)) (29)	T29N-R8E	21-D Echo Lk.	24.6	R
((29)) (30)	T29N-R9E	9-M/N East Boardman Lk.	24.7	R
((30)) (31)	T29N-R9E	36-J/R Greider Lks. Upper	58.4	R
((31)) (32)	T29N-R10E	4 Copper Lk.	60.8	R
((32)) (33)	T30N-R6E	31-C/D Cassidy Lk.	124.6	R
((33)) (34)	T30N-R6E	36-E1/2 Bosworth Lk.	95.4	R
((34)) (35)	T31N-R4E	18-SE1/4 Martha Lk.	58.4	R
((35)) (36)	T31N-R4E	20-L/P Howard Lk.	27.1	R
((36)) (37)	T31N-R4E	23-L Ki Lk.	97.4	R
((37)) (38)	T31N-R4E	33-G Goodwin Lk.	546.8	R
((38)) (39)	T31N-R4E	33-P Shoecraft Lk.	136.8	R
((39)) (40)	T31N-R4E	34-H Crabapple Lk.	36.3	R
((40)) (41)	T31N-R4E	35-A/H Loma Lk.	21.1	R
((41)) (42)	T32N-R4E	26-K/L Sunday Lk.	38.7	R
((42)) (43)	T32N-R5E	26-SE1/4 Armstrong Lk.	30.7	R
((43)) (44)	T32N-R5E	27-F/G Bryant Lk.	20.2	R
((44)) (45)	T32N-R6E	26-C Little Lk.	23.4	R
((45)) (46)	T32N-R7E	19-H/J Riley Lk.	30.0	R
((46)) (47)	T32N-R10E	28 Evangeline Lk.	25.0	R

**WSR 98-09-117**

**PERMANENT RULES**

**DEPARTMENT OF HEALTH**

[Filed April 22, 1998, 11:28 a.m.]

Date of Adoption: March 23, 1998.

Purpose: Chapter 246-249 WAC, definitions related to low-level radioactive waste disposal are made consistent with federal regulations and the use of the uniform low-level radioactive waste disposal manifest is required; and chapter 246-250 WAC, requires the disposal site operator to have the capability to record and report information from the uniform manifest on a computer readable medium and to report certain information to the department.

Citation of Existing Rules Affected by this Order: Amending WAC 246-249-010, 246-249-090, and 246-250-600.

Statutory Authority for Adoption: RCW 70.98.050 and 70.98.080.

Adopted under notice filed as WSR 98-03-095 on January 21, 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 3, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

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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 3, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 20, 1998  
Bruce Miyahara  
Secretary

AMENDATORY SECTION (Amending Order 187, filed 8/7/91, effective 9/7/91)

**WAC 246-250-600 Maintenance of records, reports, and transfers.** (1) Each licensee shall maintain any records and make any reports in connection with the licensed activities as may be required by the conditions of the license or by the rules, regulations, and orders of the department.

(2) Records which are required by these regulations or by license conditions shall be maintained for a period specified by the appropriate regulations or by license condition. If a retention period is not otherwise specified, these records must be maintained and transferred to the officials specified in subsection (4) of this section as a condition of license termination unless the department otherwise authorizes their disposition.

(3) Records which shall be maintained pursuant to this chapter may be the original or a reproduced copy or microfilm if this reproduced copy or microfilm is capable of producing copy that is clear and legible at the end of the required retention period.

(4) Notwithstanding subsections (1) through (3) of this section, copies of records of the location and the quantity of wastes contained in the disposal site must be transferred upon license termination to the chief executive of the nearest municipality, the chief executive of the county in which the facility is located, the county zoning board or land development and planning agency, the state governor, the United States Department of Energy, and other state, local, and federal governmental agencies as designated by the department at the time of license termination.

(5) Following receipt and acceptance of a shipment of radioactive waste, the licensee shall record the date ((of disposal of the waste, the specific location of waste in the disposal site, the condition of the waste packages as received, any discrepancies between materials listed on the manifest and those received, and any evidence of leaking or damaged packages or radiation or contamination levels in excess of limits specified in United States Department of Transportation and state of Washington regulations. The licensee shall briefly describe any repackaging operations of any of the waste packages included in the shipment, plus any other information required by the department as a license condition)) that the shipment is received at the disposal facility, the date of disposal of the waste, a traceable shipment manifest number, a description of any engineered barrier or structural overpack provided for disposal of the waste, the location of disposal at the disposal site, the containment integrity of the waste disposal containers as received, any discrepancies between materials listed on the manifest and those received, the volume of any pallets, bracing, or other shipping or on-

site generated materials that are contaminated, and are disposed of as contaminated or suspect materials, and any evidence of leaking or damaged disposal containers or radiation or contamination levels in excess of limits specified in U.S. Department of Transportation and state of Washington regulations. The licensee shall briefly describe any repackaging operations of any of the disposal containers included in the shipment, plus any other information required by the department as a license condition. The licensee shall retain these records until the department transfers or terminates the license that authorizes the activities described in these regulations.

(6) Each licensee authorized to dispose of waste received from other persons shall file a copy of its financial report or a certified financial statement annually with the department in order to update the information base for determining financial qualifications.

(7)(a) Each licensee authorized to dispose of waste received from other persons, pursuant to this chapter, shall submit annual reports to the department. Reports shall be submitted by the end of the first calendar quarter of each year for the preceding year.

(b) The reports shall include:

(i) Specification of the quantity of each of the principal contaminants released to unrestricted areas in liquid and in airborne effluents during the preceding year;

(ii) The results of the environmental monitoring program;

(iii) A summary of licensee disposal unit survey and maintenance activities;

(iv) A summary, by waste class, of activities and quantities of radionuclides disposed of;

(v) Any instances in which observed site characteristics were significantly different from those described in the application for a license; and

(vi) Any other information the department may require.

(c) If the quantities of waste released during the reporting period, monitoring results, or maintenance performed are significantly different from those expected, the report must cover this specifically.

(8) In addition to the other requirements of this section, the licensee shall store, or have stored, manifest and other information pertaining to receipt and disposal of radioactive waste in an electronic recordkeeping system.

(a) The manifest information that must be electronically stored is:

(i) That required in WAC 246-249-090 with the exception of shipper and carrier telephone numbers and shipper and consignee certifications; and

(ii) That information required in subsection (5) of this section.

(b) As specified in facility license conditions, the licensee shall have the capability to report the stored information, or subsets of this information, on a computer-readable medium.

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AMENDATORY SECTION (Amending Order 187, filed 8/7/91, effective 9/7/91)

**WAC 246-249-010 Definitions.** As used in this chapter, the following definitions apply:

(1) "Low-level radioactive waste" has the same meaning as in the Low-Level Radioactive Waste Policy Amendments Act of 1985, Public Law 99-240, that is, radioactive waste not classified as high-level radioactive waste, spent nuclear fuel, or by-product material as defined in section 11e.(2) of the Atomic Energy Act.

(2) "Broker" means a person who performs one or more of the following functions for a low-level radioactive waste generator:

(a) Arranges for transportation of the low-level radioactive waste;

(b) Collects and/or consolidates shipments of such low-level radioactive waste (waste collector);

(c) Processes such low-level radioactive waste in some manner; provided it shall not mean a carrier whose sole function is to transport such low-level radioactive waste (waste processor).

(3) (~~"Shipper" or "consignor" means the last licensee to possess the low-level radioactive waste prior to transportation to the low-level radioactive waste disposal site, normally the generator when no broker is involved; otherwise, the broker.~~

(4) ~~"Generator" means the last person who puts radioactive material to practical use, and who then declares it to be no longer of use or value.~~

(5) ~~"Chelating agent" means amine polycarboxylic acids (e.g., EDTA, DTPA), hydroxy-carboxylic acids, and polycarboxylic acids (e.g., citric acid, carbolic acid, and gluconic acid).~~

(4) "Chemical description" means a description of the principal chemical characteristics of a low-level radioactive waste.

(5) "Computer-readable medium" means that the regulatory agency's computer can transfer the information from the medium into its memory.

(6) "Consignee" means the designated receiver of the shipment of low-level radioactive waste.

(7) "Decontamination facility" means a facility operating under a commission or agreement state license whose principal purpose is decontamination of equipment or materials to accomplish recycle, reuse, or other waste management objectives, and, for purposes of this section, is not considered to be a consignee for LLW shipments.

(8) "Disposal container" means a container principally used to confine low-level radioactive waste during disposal operations at a land disposal facility (also see "high integrity container"). Note that for some shipments, the disposal container may be the transport package.

(9) "EPA identification number" means the number received by a transporter following application to the administrator of EPA as required by 40 CFR Part 263.

(10) "Generator" means a licensee operating under a commission or agreement state license who:

(a) Is a waste generator as defined in this part; or

(b) Is the licensee to whom waste can be attributed within the context of the Low-Level Radioactive Waste Pol-

icy Amendments Act of 1985 (e.g., waste generated as a result of decontamination or recycle activities).

(11) "High integrity container (HIC)" means a container commonly designed to meet the structural stability requirements of this chapter, and to meet department of transportation requirements for a Type A package.

(12) "Land disposal facility" means the land, buildings, and equipment which are intended to be used for the disposal of radioactive wastes. For the purposes of this chapter, a land disposal facility does not include a geologic repository.

(13) "Motor vehicle" means any vehicle, truck, tractor, semi-trailer, or trailer (or any permitted combination of these), driven by mechanical power and used upon the highways to carry property.

((6)) (14) "Motor common carrier" means a person holding itself out to the general public to provide motor vehicle transportation for compensation over regular or irregular routes, or both.

((7)) (15) "Motor contract carrier" means a person other than a common carrier providing motor vehicle transportation of property for compensation under continuing agreements with one or more persons.

((8)) (16) "Motor private carrier" means a person, other than a motor carrier, transporting property by motor vehicle when the person is the owner, lessee, or bailee of the property being transported; and the property is being transported for sale, lease, rent, or bailment, or to further a commercial enterprise.

((9)) (17) "Motor carrier" means a motor common carrier and a motor contract carrier.

(18) "NRC Forms 540, 540A, 541, 541A, 542, and 542A" are official NRC Forms referenced in this section. Licensees need not use originals of these NRC Forms as long as any substitute forms are equivalent to the original documentation in respect to content, clarity, size, and location of information. Upon agreement between the shipper and consignee, NRC Forms 541 (and 541A) and NRC Forms 542 (and 542A) may be completed, transmitted, and stored in electronic media. The electronic media must have the capability for producing legible, accurate, and complete records in the format of the uniform manifest.

(19) "Package" means the assembly of components necessary to ensure compliance with the packaging requirements of DOT regulations, together with its radioactive contents, as presented for transport.

(20) "Physical description" means the items called for on NRC Form 541 to describe a low-level radioactive waste.

(21) "Residual waste" means low-level radioactive waste resulting from processing or decontamination activities that cannot be easily separated into distinct batches attributable to specific waste generators. This waste is attributable to the processor or decontamination facility, as applicable.

(22) "Shipper" means the licensed entity (i.e., the waste generator, waste collector, or waste processor) who offers low-level radioactive waste for transportation, typically consigning this type of waste to a licensed waste collector, waste processor, or land disposal facility operator.

((10)) (23) "Shipment" means the total low-level radioactive waste material transported in one motor vehicle.

~~((1+))~~ (24) "Shipping paper" means NRC Form 540 and, if required, NRC Form 540A which includes the information required by DOT in 49 CFR Part 172.

(25) "Transuranic waste" means material contaminated with elements that have an atomic number greater than 92.

(26) "Uniform Low-Level Radioactive Waste Manifest or uniform manifest" means the combination of NRC Forms 540, 541, and, if necessary, 542, and their respective continuation sheets as needed, or equivalent.

(27) "Waste collector" means an entity, operating under a commission or agreement state license, whose principal purpose is to collect and consolidate waste generated by others, and to transfer this waste, without processing or repackaging the collected waste, to another licensed waste collector, licensed waste processor, or licensed land disposal facility.

(28) "Waste description" means the physical, chemical and radiological description of a low-level radioactive waste as called for on NRC Form 541.

(29) "Waste generator" means an entity, operating under a commission or agreement state license, who:

(a) Possesses any material or component that contains radioactivity or is radioactively contaminated for which the licensee foresees no further use; and

(b) Transfers this material or component to a licensed land disposal facility or to a licensed waste collector or processor for handling or treatment prior to disposal.

A licensee performing processing or decontamination services may be a "waste generator" if the transfer of low-level radioactive waste from its facility is defined as "residual waste."

(30) "Waste processor" means an entity, operating under a commission or agreement state license, whose principal purpose is to process, repackage, or otherwise treat low-level radioactive material or waste generated by others prior to eventual transfer of waste to a licensed low-level radioactive waste land disposal facility.

(31) "Waste type" means a waste within a disposal container having a unique physical description (i.e., a specific waste descriptor code or description; or a waste sorbed on or solidified or stabilized in a specifically defined media).

**AMENDATORY SECTION** (Amending WSR 97-02-014, filed 12/20/96, effective 1/20/97)

**WAC 246-249-090 Transfer for disposal and manifests.** ~~((1))~~ Each shipment of waste to a licensed land disposal facility shall be accompanied by a shipment manifest that contains the name, address, and telephone number of the person generating the waste. The manifest shall also include the name, address, and telephone number of the person transporting the waste to the land disposal facility. The manifest shall also indicate as completely as practicable: A physical description of the waste; the waste volume; radionuclide identity and quantity; the total radioactivity; and the principal chemical form. The solidification, stabilization, or sorption agent shall be specified. Wastes containing more than 0.1 percent chelating agents by weight shall be identified and the weight percentage of the chelating agent estimated. Wastes classified as Class A, Class B, or Class C in WAC 246-249-040 shall be clearly identified as such in the manifest unless

transferred to a waste processor who treats or repackages wastes. The total quantity of the radionuclides H-3, C-14, Tc-99 and I-129 must be shown.

(2) The manifest required in subsection (1) of this section may be shipping papers used to meet United States Department of Transportation or United States Environmental Protection Agency regulations or requirements of the receiver, provided all of the required information is included. Copies of manifests required by this section may be legible carbon copies or legible photocopies.

(3) Each manifest shall include a certification by the waste generator that the transported materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the United States Department of Transportation and the agency. An authorized representative of the waste generator shall sign and date the manifest.

(4) Any generator licensee who transfers waste to a land disposal facility or a licensed waste collector shall comply with the following requirements. Any licensee who transfers waste to a licensed waste processor who treats or repackages waste shall comply with the requirements of (d) through (h) of this subsection. A licensee shall:

(a) Prepare all wastes so the waste is classified according to WAC 246-249-040 and meets the waste characteristics requirements in WAC 246-249-050.

(b) Label each package of waste to identify whether it is a Class A waste, Class B waste or Class C waste, in accordance with WAC 246-249-040;

(c) Conduct a quality control program to assure compliance with WAC 246-249-040 and 246-249-050; the program must include management evaluation of audits;

(d) Prepare shipping manifests to meet the requirements of subsections (1), (2), and (3) of this section;

(e) Forward a copy of the manifest to the intended recipient, at the time of shipment; or, deliver to a broker at the time the waste is collected, obtaining acknowledgement of receipt in the form of a signed copy of the manifest from the broker;

(f) Include one copy of the manifest with the shipment;

(g) Retain a copy of the manifest with documentation of acknowledgement of receipt as the record of transfer of licensed material as required by these regulations;

(h) For any shipments or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this section, conduct an investigation in accordance with subsection (8) of this section.

(5) Any waste broker licensee who handles prepackaged waste shall:

(a) Acknowledge receipt of the waste from the generator within one week of receipt by returning a signed copy of the manifest.

(b) Prepare a new manifest to reflect consolidated shipments; the new manifest shall serve as a listing or index for the detailed generator manifests. Copies of the generator manifests shall be a part of the new manifest.

The waste broker may prepare a new manifest without attaching the generator manifests, provided the new manifest contains for each package the information specified in subsection (1) of this section. The broker licensee shall certify

that nothing has been done to the waste which would invalidate the generator's certification.

(c) Forward a copy of the new manifest to the land disposal facility operator at the time of shipment;

(d) Include the new manifest with the shipment to the disposal site.

(e) Retain a copy of the manifest with documentation of acknowledgement of receipt as the record of transfer of licensed material as required by these regulations, and retain information from generator manifests as required by these regulations, and retain information from generator manifests until disposition is authorized by the agency; and

(f) For any shipments or any part of a shipment for which acknowledgement of receipt is not received within the times set forth in this section, conduct an investigation in accordance with subsection (8) of this section.

(6) Any licensed waste processor who treats or repackages wastes shall:

(a) Acknowledge receipt of the waste from the generator within one week of receipt by returning a signed copy of the manifest.

(b) Prepare a new manifest that meets the requirements of subsections (1), (2), and (3) of this section. Preparation of the new manifest reflects that the processor is responsible for the waste;

(c) Prepare all wastes so that the waste is classified according to WAC 246-249-040 and meets the waste characteristics requirement in WAC 246-249-050.

(d) Label each package of waste to identify whether it is Class A waste, Class B waste, or Class C waste, in accordance with WAC 246-249-040 and 246-249-060.

(e) A quality control program shall be conducted to assure compliance with WAC 246-249-040 and 246-249-050. The program shall include management evaluation of audits;

(f) Forward a copy of the new manifest to the disposal site operator or waste broker at the time of shipment, or deliver to a broker at the time the waste is collected, obtaining acknowledgement of receipt in the form of a signed copy of the manifest by the broker.

(g) Include the new manifest with the shipment;

(h) Retain copies of the original manifests and new manifests with documentation of acknowledgement of receipt as the record of transfer of licensed material required by these regulations.

(i) For any shipment or part of a shipment for which acknowledgement is not received within the times set forth in this section, conduct an investigation in accordance with subsection (8) of this section.

(7) The land disposal facility operator shall:

(a) Acknowledge receipt of the waste within one week of receipt by returning a signed copy of the manifest to the shipper. The shipper to be notified is the licensee who last possessed the waste and transferred the waste to the operator. The returned copy of the manifest shall indicate any discrepancies between materials listed on the manifest and materials received;

(b) Maintain copies of all completed manifests until the agency authorizes their disposition; and

(e) Notify the shipper (i.e., the generator or the broker) and the agency when any shipment or part of a shipment has not arrived within sixty days after the advanced manifest was received.

(8) Any shipment or part of a shipment for which acknowledgement is not received within the time set forth in this section must:

(a) Be investigated by the shipper if the shipper has not received notification of receipt within twenty days after transfer; and

(b) Be traced and reported. The investigation shall include tracing the shipment and filing a report with the agency. Each licensee who conducts a trace investigation shall file a written report with the agency within two weeks of completion of the investigation.)) The requirements of this section are designed to control transfers of low-level radioactive waste by any waste generator, waste collector, or waste processor licensee who ships low-level waste either directly, or indirectly through a waste collector or waste processor, to a licensed low-level waste land disposal facility; establish a manifest tracking system; and supplement existing requirements concerning transfers and recordkeeping for those wastes.

(1) Effective March 1, 1998, each shipment of radioactive waste intended for disposal at a licensed land disposal facility in the state of Washington must be accompanied by a uniform low-level radioactive waste shipment manifest.

(2) Any licensee shipping radioactive waste intended for ultimate disposal at a licensed land disposal facility must document the information required on NRC's Uniform Low-Level Radioactive Waste Manifest and transfer this recorded manifest information to the intended consignee in accordance with this section.

(a) Each shipment manifest must include a certification by the waste generator as specified in this section.

(b) Each person involved in the transfer for disposal and disposal of waste, including the waste generator, waste collector, waste processor, and disposal facility operator, shall comply with the requirements specified in this section.

(c) When recording information on shipment manifests, information must be recorded in the International System of Units (SI) or in SI and units of curie, rad, rem, including multiples and subdivisions.

(3) A waste generator, collector, or processor who transports, or offers for transportation, low-level radioactive waste intended for ultimate disposal at a licensed low-level radioactive waste land disposal facility must prepare a manifest reflecting information requested on applicable NRC Forms 540 (Uniform Low-Level Radioactive Waste Manifest (Shipping Paper)) and 541 (Uniform Low-Level Radioactive Waste Manifest (Container and Waste Description)) and, if necessary, on an applicable NRC Form 542 (Uniform Low-Level Radioactive Waste Manifest (Manifest Index and Regional Compact Tabulation)). NRC Forms 540 and 540A must be completed and must physically accompany the pertinent low-level waste shipment. Upon agreement between shipper and consignee, NRC Forms 541 and 541A and 542 and 542A may be completed, transmitted, and stored in electronic media with the capability for producing legible, accurate, and complete records on the respective forms. Licensees

are not required by the department to comply with the manifesting requirements of this section when they ship:

(a) LLW for processing and expect its return (i.e., for storage under their license) prior to disposal at a licensed land disposal facility;

(b) LLW that is being returned to the licensee who is the "waste generator" or "generator," as defined in this part; or

(c) Radioactively contaminated material to a "waste processor" that becomes the processor's "residual waste."

For guidance in completing these forms, refer to the instructions that accompany the forms. Copies of manifests required by this section may be legible carbon copies, photocopies, or computer printouts that reproduce the data in the format of the uniform manifest.

This section includes information requirements of the U.S. Department of Transportation, as codified in 49 CFR Part 172. Information on hazardous, medical, or other waste, required to meet Environmental Protection Agency regulations, as codified in 40 CFR Parts 259, 261 or elsewhere, is not addressed in this section, and must be provided on the required EPA forms. However, the required EPA forms must accompany the Uniform Low-Level Radioactive Waste Manifest required by this section.

(4) Information requirements.

(a) General information.

The shipper of the radioactive waste, shall provide the following information on the uniform manifest:

(i) The name, facility address, and telephone number of the licensee shipping the waste;

(ii) An explicit declaration indicating whether the shipper is acting as a waste generator, collector, processor, or a combination of these identifiers for purposes of the manifested shipment; and

(iii) The name, address, and telephone number, or the name and EPA identification number for the carrier transporting the waste.

(b) Shipment information.

The shipper of the radioactive waste shall provide the following information regarding the waste shipment on the uniform manifest:

(i) The date of the waste shipment;

(ii) The total number of packages/disposal containers;

(iii) The total disposal volume and disposal weight in the shipment;

(iv) The total radionuclide activity in the shipment;

(v) The activity of each of the radionuclides H-3, C-14, Tc-99, and I-129 contained in the shipment; and

(vi) The total masses of U-233, U-235, and plutonium in special nuclear material, and the total mass of uranium and thorium in source material.

(c) Disposal container and waste information.

The shipper of the radioactive waste shall provide the following information on the uniform manifest regarding the waste and each disposal container of waste in the shipment:

(i) An alphabetic or numeric identification that uniquely identifies each disposal container in the shipment;

(ii) A physical description of the disposal container, including the manufacturer and model of any high integrity container;

(iii) The volume displaced by the disposal container;

(iv) The gross weight of the disposal container, including the waste;

(v) For waste consigned to a disposal facility, the maximum radiation level at the surface of each disposal container;

(vi) A physical and chemical description of the waste;

(vii) The total weight percentage of chelating agent for any waste containing more than 0.1% chelating agent by weight, plus the identity of the principal chelating agent;

(viii) The approximate volume of waste within a container;

(ix) The sorbing, stabilization, or solidification media, if any, and the identity of the solidification or stabilization media vendor and brand name;

(x) The identities and activities of individual radionuclides contained in each container, the masses of U-233, U-235, and plutonium in special nuclear material, and the masses of uranium and thorium in source material. For discrete waste types (i.e., activated materials, contaminated equipment, mechanical filters, sealed source/devices, and wastes in solidification/stabilization media), the identities and activities of individual radionuclides associated with or contained on these waste types within a disposal container shall be reported;

(xi) The total radioactivity within each container; and

(xii) For wastes consigned to a disposal facility, the classification of the waste pursuant to this chapter. Waste not meeting the structural stability requirements of this chapter must be identified.

(d) Uncontainerized waste information.

The shipper of the radioactive waste shall provide the following information on the uniform manifest regarding a waste shipment delivered without a disposal container:

(i) The approximate volume and weight of the waste;

(ii) A physical and chemical description of the waste;

(iii) The total weight percentage of chelating agent if the chelating agent exceeds 0.1% by weight, plus the identity of the principal chelating agent;

(iv) For waste consigned to a disposal facility, the classification of the waste pursuant to this chapter. Waste not meeting the structural stability requirements of this chapter must be identified;

(v) The identities and activities of individual radionuclides contained in the waste, the masses of U-233, U-235, and plutonium in special nuclear material, and the masses of uranium and thorium in source material; and

(vi) For wastes consigned to a disposal facility, the maximum radiation levels at the surface of the waste.

(e) Multigenerator disposal container information.

This subsection applies to disposal containers enclosing mixtures of waste originating from different generators. (Note: The origin of the LLW resulting from a processor's activities may be attributable to one or more "generators," including "waste generators." It also applies to mixtures of wastes shipped in an uncontainerized form, for which portions of the mixture within the shipment originate from different generators.)

(i) For homogeneous mixtures of waste, such as incinerator ash, provide waste description applicable to the mixture and the volume of the waste attributed to each generator.

(ii) For heterogeneous mixtures of waste, such as the combined products from a large compactor, identify each generator contributing waste to the disposal container, and for discrete waste types (i.e., activated materials, contaminated equipment, mechanical filters, sealed source/devices, and wastes in solidification/stabilization media), the identities and activities of individual radionuclides contained on these waste types within the disposal container. For each generator, provide the following:

(A) The volume of waste within the disposal container;

(B) A physical and chemical description of the waste, including the stabilization or solidification agent, if any;

(C) The total weight percentage of chelating agents for any disposal container containing more than 0.1% chelating agent by weight, plus the identity of the principal chelating agent;

(D) The sorbing, solidification, or stabilization media, if any, and the identity of the stabilization media vendor and brand name, if the media is claimed to meet stability requirements in WAC 246-249-050(2); and

(E) Radionuclide identities and activities contained in the waste, the masses of U-233, U-235, and plutonium in special nuclear material, and the masses of uranium and thorium in source material if contained in the waste.

(5) Certification.

An authorized representative of the waste generator, processor, or collector shall certify by signing and dating the shipment manifest that the transported materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the Department of Transportation, the U.S. Nuclear Regulatory Commission, and the department. A collector in signing the certification is certifying that nothing has been done to the collected waste which would invalidate the waste generator's certification.

(6) Control and tracking.

(a) Any licensee who transfers radioactive waste to a land disposal facility or a licensed waste collector shall comply with the requirements in (a)(i) through (ix) of this subsection. Any licensee who transfers waste to a licensed waste processor for waste treatment or repackaging shall comply with the requirements of (a)(iv) through (ix) of this section. A licensee shall:

(i) Prepare all wastes so that the waste is classified according to WAC 246-249-040 and meets the waste characteristics requirements in WAC 246-249-050;

(ii) Label each disposal container (or transport package if potential radiation hazards preclude labeling of the individual disposal container) of waste to identify whether it is Class A waste, Class B waste, Class C waste, or greater than Class C waste, in accordance with WAC 246-249-040;

(iii) Conduct a quality assurance program to assure compliance with WAC 246-249-040 and 246-249-050 (the program must include management evaluation of audits);

(iv) Prepare the NRC Uniform Low-Level Radioactive Waste Manifest as required by this section;

(v) Forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that either receipt of the manifest precedes the LLW shipment or the manifest is delivered to the consignee with

the waste at the time the waste is transferred to the consignee. Using both methods is also acceptable;

(vi) Include NRC Form 540 (and NRC Form 540A, if required) with the shipment regardless of the option chosen in (a)(v) of this subsection;

(vii) Receive acknowledgement of the receipt of the shipment in the form of a signed copy of NRC Form 540;

(viii) Retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by these regulations; and

(ix) For any shipments or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this section, conduct an investigation in accordance with (e) of this subsection.

(b) Any waste collector licensee who handles only pre-packaged waste shall:

(i) Acknowledge receipt of the waste from the shipper within one week of receipt by returning a signed copy of NRC Form 540;

(ii) Prepare a new manifest to reflect consolidated shipments that meet the requirements of this section. The waste collector shall ensure that, for each container of waste in the shipment, the manifest identifies the generator of that container of waste;

(iii) Forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that either receipt of the manifest precedes the LLW shipment, or the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using both methods is also acceptable;

(iv) Include NRC Form 540 (and NRC Form 540A, if required) with the shipment regardless of the option chosen in (b)(iii) of this subsection;

(v) Receive acknowledgement of the receipt of the shipment in the form of a signed copy of NRC Form 540;

(vi) Retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by these regulations;

(vii) For any shipments or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this section, conduct an investigation in accordance with this section; and

(viii) Notify the shipper and the department when any shipment, or part of a shipment, has not arrived within sixty days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

(c) Any licensed waste processor who treats or repackages waste shall:

(i) Acknowledge receipt of the waste from the shipper within one week of receipt by returning a signed copy of NRC Form 540;

(ii) Prepare a new manifest that meets the requirements of this section. Preparation of the new manifest reflects that the processor is responsible for meeting these requirements. For each container of waste in the shipment, the manifest shall identify the waste generators, the preprocessed waste volume, and the other information as required in subsection (4)(e) of this section;

(iii) Prepare all wastes so that the waste is classified according to WAC 246-249-040 and meets the waste characteristics requirements in WAC 246-249-050;

(iv) Label each package of waste to identify whether it is Class A waste, Class B waste, or Class C waste, in accordance with WAC 246-249-040 and 246-249-060;

(v) Conduct a quality assurance program to assure compliance with WAC 246-249-040 and 246-249-050 (the program shall include management evaluation of audits);

(vi) Forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that either receipt of the manifest precedes the LLW shipment, or the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using both methods is also acceptable;

(vii) Include NRC Form 540 (and NRC Form 540A, if required) with the shipment regardless of the option chosen in (c)(vi) of this subsection;

(viii) Receive acknowledgement of the receipt of the shipment in the form of a signed copy of NRC Form 540;

(ix) Retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by these regulations;

(x) For any shipment or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this section, conduct an investigation in accordance with (e) of this subsection; and

(xi) Notify the shipper and the department when any shipment, or part of a shipment, has not arrived within sixty days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

(d) The land disposal facility operator shall:

(i) Acknowledge receipt of the waste within one week of receipt by returning, as a minimum, a signed copy of NRC Form 540 to the shipper. The shipper to be notified is the licensee who last possessed the waste and transferred the waste to the operator. If any discrepancy exists between materials listed on the Uniform Low-Level Radioactive Waste Manifest and materials received, copies or electronic transfer of the affected forms must be returned indicating the discrepancy;

(ii) Maintain copies of all completed manifests and electronically store the information required by WAC 246-250-600(8) until the license is terminated; and

(iii) Notify the shipper and the department when any shipment, or part of a shipment, has not arrived within sixty days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

(e) Any shipment or part of a shipment for which acknowledgement is not received within the times set forth in this section must:

(i) Be investigated by the shipper if the shipper has not received notification or receipt within twenty days after transfer; and

(ii) Be traced and reported. The investigation shall include tracing the shipment and filing a report with the department. Each licensee who conducts a trace investigation shall file a written report with the department within two weeks of completion of the investigation.

**WSR 98-09-118**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

[Filed April 22, 1998, 11:30 a.m.]

Date of Adoption: March 10, 1998.

Purpose: The purpose of this rule-making order is to comply with the expedited repeal process. In addition, rules of the Department of Health, model procedural rules (WAC 246-11-420, 246-11-425, 246-11-430, 246-11-440, and 246-11-450) currently govern the same activities as these rules, making them redundant.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-918-008, 246-918-009, 246-919-500, and 246-919-510.

Statutory Authority for Adoption: RCW 18.71.017.

Adopted under preproposal statement of inquiry filed as WSR 97-20-159 on October 1, 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 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 0, Amended 0, Repealed 4.

Effective Date of Rule: Thirty-one days after filing.

March 10, 1998

Beverly A. Teeter

Acting Executive Director

for Bonnie King

Executive Director

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 246-918-008

Brief adjudicative proceedings—Denials based on failure to meet education, experience, or examination prerequisites for licensure.

WAC 246-918-009

Adjudicative proceedings.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 246-919-500

Brief adjudicative proceedings—Denials based on fail-

WAC 246-919-510

ure to meet education, experience, or examination prerequisites for licensure. Adjudicative proceedings.

**WSR 98-09-119**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

[Filed April 22, 1998, 11:31 a.m.]

Date of Adoption: March 10, 1998.

Purpose: The purpose of this rule-making order is to comply with the expedited repeal process. In addition, disciplinary actions are governed under the Uniform Disciplinary Act, chapter 18.130 RCW, making this rule redundant.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-918-160.

Statutory Authority for Adoption: RCW 18.71.017.

Adopted under preproposal statement of inquiry filed as WSR 97-20-160 on October 1, 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 1.

Effective Date of Rule: Thirty-one days after filing.

March 10, 1998

Beverly A. Teeter

Acting Executive Director for

Bonnie King

Executive Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-918-160

Physician assistant and certified physician assistant disciplinary actions.

**WSR 98-09-120**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

[Filed April 22, 1998, 11:33 a.m.]

Date of Adoption: March 11, 1998.

Purpose: Repeals WAC 246-340-085, relating to second trimester abortion facilities. This rule is no longer necessary, this section was inadvertently omitted when the rest of the chapter was repealed in 1993. The department does not license second trimester abortion facilities and therefore the rule is obsolete.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-340-085.

Statutory Authority for Adoption: RCW 43.43.830 through 43.43.842.

Adopted under preproposal statement of inquiry filed as WSR 97-20-156 on October 1, 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 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 1.

Effective Date of Rule: Thirty-one days after filing.

April 22, 1998

Bruce Miyahara

Secretary

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-340-085

Criminal history, disclosure, and background inquiries.

**WSR 98-09-125**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed April 22, 1998, 11:56 a.m., effective July 1, 1998]

Date of Adoption: April 22, 1998.

Purpose: Update conversion factors used to calculate maximum payment levels for services reimbursed under RBRVS and anesthesia fee schedules to adjust for changes in payment policies and to give cost of living increases to pro-

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viders. Update the maximum daily rate for physical and occupational therapies to give a cost of living increase to providers.

Citation of Existing Rules Affected by this Order: Amending WAC 296-20-135, 296-23-220, and 296-23-230.

Statutory Authority for Adoption: RCW 51.04.020(4) and 51.04.030.

Adopted under notice filed as WSR 98-05-100 on February 18, 1998.

Changes Other than Editing from Proposed to Adopted Version: There are no changes from the proposed to the adopted version of this 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 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 3, Repealed 0.

Effective Date of Rule: July 1, 1998.

April 22, 1998

Gary Moore  
Director

**AMENDATORY SECTION** (Amending WSR 97-10-017, filed 4/28/97, effective 7/1/97)

**WAC 296-20-135 Conversion factors.** (1) Conversion factors are used to calculate payment levels for services reimbursed under the Washington resource based relative value scale (RBRVS), and for anesthesia services payable with base and time units.

(2) **Washington RBRVS** services have a conversion factor of (~~(\$46.24)~~) \$47.61. The fee schedules list the reimbursement levels for these services.

(3) **Anesthesia services** that are paid with base and time units have a conversion factor of (~~(\$1.94)~~) \$2.02 per minute. The base units and payment policies can be found in the fee schedules.

(4) Services that do **not** use a conversion factor to establish reimbursement levels have dollar values, not relative values listed in the fee schedules.

**AMENDATORY SECTION** (Amending WSR 97-10-017, filed 4/28/97, effective 7/1/97)

**WAC 296-23-220 Physical therapy rules.** Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.

All supplies and materials must be billed using HCPCS Level II codes. Refer to chapter 296-21 WAC for additional information. HCPCS codes are listed in the fee schedules.

Refer to chapter 296-20 WAC (WAC 296-20-125) and to the department's billing instructions for additional information.

Physical therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed physical therapist or a physical therapist assistant serving under the direction of a licensed physical therapist. Doctors rendering physical therapy should refer to WAC 296-21-290.

The department or self-insurer will review the quality and medical necessity of physical therapy services provided to workers. Practitioners should refer to WAC 296-20-01002 for the department's rules regarding medical necessity and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or (~~(\$76.81)~~) \$80.00 whichever is less. These limits will not apply to physical therapy that is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to workers.

Use of diapulse or similar machines on workers is not authorized. See WAC 296-20-03002 for further information.

A physical therapy progress report must be submitted to the attending doctor and the department or the self-insurer following twelve treatment visits or one month, whichever occurs first. Physical therapy treatment beyond initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Physical therapy services rendered in the home and/or places other than the practitioner's usual and customary office, clinic, or business facilities will be allowed only upon prior authorization by the department or self-insurer.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Biofeedback treatment may be rendered on doctor's orders only. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of a licensed physical therapist. See chapter 296-21 WAC for



rules pertaining to conditions authorized and report requirements.

Billing codes and reimbursement levels are listed in the fee schedules.

**AMENDATORY SECTION** (Amending WSR 97-10-017, filed 4/28/97, effective 7/1/97)

**WAC 296-23-230 Occupational therapy rules.** Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 for information regarding the conversion factors.

All supplies and materials must be billed using HCPCS Level II codes, refer to the department's billing instructions for additional information.

Occupational therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed occupational therapist or an occupational therapist assistant serving under the direction of a licensed occupational therapist. Vocational counselors assigned to injured workers by the department or self-insurer may request an occupational therapy evaluation. However, occupational therapy treatment must be ordered by the worker's attending doctor.

An occupational therapy progress report must be submitted to the attending doctor and the department or self-insurer following twelve treatment visits or one month, whichever occurs first. Occupational therapy treatment beyond the initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

The department or self-insurer will review the quality and medical necessity of occupational therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department will pay for a maximum of one occupational therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or ~~(\$76.81)~~ **\$80.00** whichever is less. These limits will not apply to occupational therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for occupational therapists who render care to workers.

Occupational therapy services rendered in the worker's home and/or places other than the practitioner's usual and customary office, clinic, or business facility will be allowed only upon prior authorization by the department or self-insurer.

No inpatient occupational therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Billing codes, reimbursement levels, and supporting policies for occupational therapy services are listed in the fee schedules.



**WSR 98-08-088**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed April 1, 1998, 9:27 a.m.]

Date of Adoption: March 31, 1998.

Purpose: These rules implement state and federal legislation concerning welfare and immigration reform as it impacts eligibility for medical assistance programs. Changes include eligibility criteria for several categories of aliens, and methodology for calculating a client's income (by exempting diversion cash) to determine eligibility for medical services.

Citation of Existing Rules Affected by this Order: Amending WAC 388-500-0005, 388-503-0310, 388-505-0520, 388-507-0740, 388-510-1020, and 388-523-2305.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530.

Other Authority: RCW 74.04.005, 74.08.331, 74.08A.010, [74.08A.]100, [74.08A.]210, [74.08A.]230, 74.09.510, 74.12.255, Public Law 104-193 (1997), and the Federal Balanced Budget Act of 1997.

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 department was required to implement, and comply with, state and federal welfare reform legislation by August 1, 1997. This rule has been in effect on an emergency basis, and has been proposed for permanent adoption.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 6, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 6, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

March 31, 1998

Edith M. Rice, Chief  
Office of Legal Affairs

AMENDATORY SECTION (Amending Order 3913, filed 10/25/95, effective 10/28/95)

**WAC 388-500-0005 Medical definitions.** Unless defined in this chapter or (~~specifically defined~~) in other chapters of the *Washington Administrative Code*, (~~the department shall~~) use definitions found in the *Webster's New*

*World Dictionary*. This section contains definitions of words and phrases the department uses in rules for medical programs. Definitions of words used for both medical and financial programs are defined under WAC 388-22-030.

~~("Application" for eligibility for medical programs means a written request to the department of social and health services (DSHS) on a department form, from the applicant, an authorized representative, or if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant.~~

~~"Assignment Medicare" means the method by which the provider receives payment for services under Part B of Medicare.)~~

"Assignment of rights" means the client gives the state the right to payment and support for medical care from a third party.

~~("Assistance unit" means a person or members of a family unit who are eligible for medical care.~~

~~"Authorization" means official approval for department action.)~~

"Base period" means the time period used in the limited casualty program which corresponds with the months considered for eligibility.

"Beneficiary" means an eligible person who receives:

- \* A federal cash Title XVI benefit; and/or
- \* State supplement under Title XVI; or
- \* Benefits under Title XVIII of the Social Security Act.

"Benefit period" means the time period used in determining whether Medicare can pay for covered Part A services. A benefit period begins the first day a beneficiary is furnished inpatient hospital or extended care services by a qualified provider. The benefit period ends when the beneficiary has not been an inpatient of a hospital or other facility primarily providing skilled nursing or rehabilitation services for sixty consecutive days. There is no limit to the number of benefit periods a beneficiary may receive. Benefit period also means a "spell of illness" for Medicare payments.

"Cabulance" means a (~~for hire~~) vehicle for hire designed and used to transport a physically restricted person (~~(confined to a wheelchair or persons otherwise physically restricted)~~).

"Carrier" means:

- \* An organization contracting with the federal government to process claims under Part B of Medicare; or
- \* A health insurance plan contracting with the department.

"Categorical assistance unit (CAU)" means one or more family members whose eligibility for medical care is determined separately or together based on categorical relatedness.

"Categorically needy" means the status of a person who is eligible for medical care under Title XIX of the Social Security Act (~~and is:~~

- \* ~~A client receiving or eligible to receive cash assistance under:~~
- \* ~~Aid to families with dependent children (AFDC);~~
- \* ~~Supplemental security income (SSI), including a client grandfathered person and a person with an essential spouse;~~
- \* ~~State supplement;~~

\* Continuing state funded cash assistance who is blind or disabled under SSI criteria, as described under WAC 388-511-1105; or

\* Special categories.

\* A financially eligible person under twenty-one years of age who would be eligible for AFDC but does not qualify as a dependent child and who is in:

\* Foster care;

\* Subsidized adoption;

\* A nursing facility or intermediate care facility for mentally retarded; or

\* An approved inpatient psychiatric facility.

\* A person who would be eligible for cash assistance except for the person's institutional status.

\* A person who is SSI categorically related and would not be eligible for cash assistance if the person was not institutionalized and whose gross income does not exceed the three hundred percent SSI benefit cap.

\* A qualified severely impaired disabled person under sixty-five years of age who works.

\* A person during a temporary period who lost AFDC because of increased earnings, increased hours, loss of earned income disregards, or by receiving child or spousal support payments.

\* A pregnant woman:

\* Who meets AFDC financial eligibility standards;

\* Who would qualify for AFDC if the baby was already born;

\* Whose family income does not exceed one hundred eighty-five percent of the federal poverty level; or

\* Who was eligible for and receiving Medicaid while pregnant continues to be eligible through a sixty-day postpartum period that extends through the month that contains the sixtieth day after birth.

\* An infant until the infant's first birthday when the infant lives with the mother and the mother was Medicaid eligible at the time the infant was born;

\* An infant under one year of age whose family income does not exceed one hundred eighty-five percent of the federal poverty level;

\* A child under six years of age or until the child is no longer an inpatient if the inpatient stay began before six years of age and whose family income does not exceed one hundred thirty-three percent of the federal poverty level.

\* A child born after September 30, 1983, who has attained six years of age or until the child is no longer an inpatient if the inpatient stay began before eighteen years of age, but not attained eighteen years of age whose family income does not exceed one hundred percent of the federal poverty level.

\* A child up to eighteen years of age or until the child is no longer an inpatient if the inpatient stay began before eighteen years of age, born before September 30, 1983, with income allowed by AFDC.

\* A certain widow, widower, and other qualified person who fails to meet SSI standards because of Social Security coverage or increase in Social Security coverage.

\* A Medicare eligible person whose income does not exceed one hundred percent of the federal poverty level and

whose resources do not exceed twice the SSI resource eligibility level.

\* A disabled working person entitled to enroll in Medicare Part A, whose income does not exceed two hundred percent of the federal poverty level and whose resources do not exceed twice the SSI resource eligibility level.

\* An alien as defined under WAC 388-510-1020; or

\* A person whose categorical eligibility is protected by statute). See WAC 388-503-0310.

"**Children's health program**" means a state-funded medical program for children under age eighteen ((years of age)):

\* Whose family income does not exceed one hundred percent of the federal poverty level; and

\* Who are not otherwise eligible under Title XIX of the Social Security Act.

((**"Client"** means an applicant for or recipient of DSHS medical care programs.))

"**Coinsurance-Medicare**" means the portion of reimbursable hospital and medical expenses, after subtraction of any deductible, which Medicare does not pay. Under Part A, coinsurance is a per day dollar amount. Under Part B, coinsurance is twenty percent of reasonable charges.

"**Community services office (CSO)**" means an office of the department which administers social and health services at the community level.

((**"Copayment"** means a fixed dollar amount that is the responsibility of the client.))

"**Couple**" means, for the purposes of an SSI-related client, an SSI-related client living with a person of the opposite sex and both presenting themselves to the community as husband and wife. The department shall consider the income and resources of such couple as if the couple were married except when determining institutional eligibility.

"**Deductible-Medicare**" means an initial specified amount that is the responsibility of the client.

\* "**Part A of Medicare-inpatient hospital deductible**" means an initial amount of the medical care cost in each benefit period which Medicare does not pay.

\* "**Part B of Medicare-physician deductible**" means an initial amount of Medicare Part B covered expenses in each calendar year which Medicare does not pay.

"**Delayed certification**" means ((a)) department approval of a person's eligibility for medicaid made after the established application processing time limits.

"**Department**" means the state department of social and health services.

"**Early and periodic screening, diagnosis and treatment (EPSDT)**" also known as the "healthy kids" program, means a program providing early and periodic screening, diagnosis and treatment to persons under twenty-one years of age who are eligible for Medicaid or the children's health program.

"**Electronic fund transfers (EFT)**" means automatic bank deposits to a client's or provider's account.

"**Emergency medical condition**" means the sudden onset of a medical condition (including labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- \* Placing the patient's health in serious jeopardy;
- \* Serious impairment to bodily functions; or
- \* Serious dysfunction of any bodily organ or part.

**"Emergency medical expense requirement"** means a specified amount of expenses for ambulance, emergency room or hospital services, including physician services in a hospital, incurred for an emergency medical condition that a client must incur prior to certification for the medically indigent program.

**"Essential spouse"** see "spouse."

**"Extended care patient"** means a recently hospitalized Medicare patient needing relatively short-term skilled nursing and rehabilitative care in a skilled nursing facility.

**"Garnishment"** means withholding an amount from earned or unearned income to satisfy a debt or legal obligation.

**"Grandfathered client"** means:

- \* A noninstitutionalized person who meets all current requirements for Medicaid eligibility except the criteria for blindness or disability; and

- \* Was eligible for Medicaid in December 1973 as blind or disabled whether or not the person was receiving cash assistance in December 1973; and

- \* Continues to meet the criteria for blindness or disability and other conditions of eligibility used under the Medicaid plan in December 1973; and

- \* An institutionalized person who was eligible for Medicaid in December 1973 or any part of that month, as an inpatient of a medical institution or resident of an intermediate care facility that was participating in the Medicaid program and for each consecutive month after December 1973 who:

- \* Continues to meet the requirements for Medicaid eligibility that were in effect under the state's plan in December 1973 for institutionalized persons; and

- \* Remains institutionalized.

~~("Health insuring organization (HIO)" means an entity that arranges and pays for medical services provided to an eligible enrolled client in exchange for a premium or subscription charge paid by the department on a prepaid capitation risk basis.))~~

**"Health maintenance organization (HMO)"** means an entity ~~((that))~~ licensed by the office of the insurance commissioner to provide ~~((s))~~ comprehensive medical services directly to an eligible enrolled client in exchange for a premium paid by the department on a prepaid capitation risk basis.

**"Healthy kids,"** see "EPSDT."

**"Home health agency"** means an agency or organization certified under Medicare to provide comprehensive health care on a part-time or intermittent basis to a patient in the patient's place of residence.

**"Hospital"** means an institution licensed as a hospital by the ~~((official state licensing authority))~~ department of health.

**"Income for an SSI-related client,"** means ~~((for an SSI-related client.))~~ the receipt by an individual of any property or service which the client can apply either directly, by sale, or conversion to meet the client's basic needs for food, clothing, and shelter.

\* **"Earned income"** means gross wages for services rendered and/or net earnings from self-employment. ~~((Earned income received at predictable intervals other than monthly or in unequal amounts will be converted to a monthly basis. If income is weekly, the amount is multiplied by 4.3 to arrive at a monthly figure.))~~

\* **"Unearned income"** means all other income.

**"Institution"** means an establishment which furnishes food, shelter, medically-related services, and medical care to four or more persons unrelated to the proprietor. This includes medical facilities, nursing facilities, and institutions for the mentally retarded ~~((, but does not include correctional institutions)).~~

\* **"Institution-public"** means an institution, including a correctional institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

\* **"Institution for mental diseases"** means an institution primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases including medical attention, nursing care, and related services.

\* **"Institution for the mentally retarded or a person with related conditions"** means an institution that:

- \* Is primarily for the diagnosis, treatment or rehabilitation of the mentally retarded or a person with related conditions; and

- \* Provides, in a protected residential setting, on-going care, twenty-four hour supervision, evaluation, and planning to help each person function at the greatest ability.

\* **"Institution for tuberculosis"** means an institution for the diagnosis, treatment, and care of a person with tuberculosis.

\* **"Medical institution"** means an institution:

- \* Organized to provide medical care, including nursing and convalescent care;

- \* With the necessary professional personnel, equipment and facilities to manage the health needs of the patient on a continuing basis in accordance with acceptable standards;

- \* Authorized under state law to provide medical care; and

- \* Staffed by professional personnel. Services include adequate physician and nursing care.

**"Intermediary"** means an organization having an agreement with the federal government to process Medicare claims under Part A.

**"Legal dependent"** means a person for whom another person is required by law to provide support.

**"Limited casualty program (LCP)"** means a medical care program for medically needy, as defined under WAC 388-503-0320 and for medically indigent, as defined under WAC 388-503-0370.

**"Medicaid"** means the federal aid Title XIX program under which medical care is provided to persons eligible for:

- \* Categorically needy program as defined in WAC 388-503-0310 and ~~((388-503-1105))~~ 388-511-1105; or

- \* Medically needy program as defined in WAC 388-503-0320.

**"Medical assistance,"** ~~((means the federal aid Title XIX program under which medical care is provided to the categor-~~

ically needy as defined in WAC 388-503-0310 and 388-503-1105.) See "Medicaid."

"**Medical assistance administration (MAA)**" means the unit within the department of social and health services authorized to administer the Title XIX Medicaid and the state-funded medical care programs.

"**Medical assistance unit (MAU)**" means one or more family members whose eligibility for medical care is determined separately or together based on financial responsibility.

"**Medical care services**" means the limited scope of care financed by state funds and provided to general assistance (GAU) and ADATSA clients.

"**Medical consultant**" means a physician employed by the department.

"**Medical facility**" see "**Institution**."

"**Medically indigent (MI)**" means a state-funded medical program (~~(, part of the limited casualty program,)~~) for a person (~~(with limited income and resources)~~) who has an emergency medical condition requiring hospital-based services.

"**Medically necessary**" is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent worsening of conditions in the client that endanger life, or cause suffering or pain, or result in an illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction (~~(, and)~~). There is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the client requesting the service. For the purpose of this section, "course of treatment" may include mere observation or, where appropriate, no treatment at all.

"**Medically needy (MN)**" is the status of a person who is eligible for a federally matched medical program under Title XIX of the Social Security Act, who, but for income (~~(and/or resources)~~) above the categorically needy level, would be eligible as categorically needy. Effective January 1, 1996, an AFDC-related adult is not eligible for MN.

"**Medicare**" means the federal government health insurance program for certain aged or disabled clients under Titles II and XVIII of the Social Security Act. Medicare has two parts:

\* "**Part A**" covers the Medicare inpatient hospital, post-hospital skilled nursing facility care, home health services, and hospice care.

\* "**Part B**" is the supplementary medical insurance benefit (SMIB) covering the Medicare doctor's services, outpatient hospital care, outpatient physical therapy and speech pathology services, home health care, and other health services and supplies not covered under Part A of Medicare.

"**Medicare assignment**" means the method by which the provider receives payment for services under Part B of Medicare.

"**Month of application**" means the calendar month a person files the application for medical care (~~(unless)~~). When the application is for the medically needy program, (then,) at the person's request and if the application is filed in the last ten days of that month, the month of application may be the following month.

"**Nursing facility**" means any institution or facility the department of health licenses as a nursing facility, or a nursing facility unit of a licensed hospital, that the:

- \* Department certifies; and
- \* Facility and the department agree the facility may provide skilled nursing facility care.

"**Outpatient**" means a nonhospitalized patient receiving care in a hospital outpatient or hospital emergency department, or away from a hospital such as in a physician's office, the patient's own home, or a nursing facility.

"**Patient transportation**" means client transportation to and from covered medical services under the federal Medicaid and state medical care programs.

"**Physician**" means a doctor of medicine, osteopathy, or podiatry who is legally authorized to perform the functions of the profession by the state in which the services are performed.

"**Professional activity study (PAS)**" means a compilation of inpatient hospital data (~~(by diagnosis and age)~~), conducted by the commission of professional and hospital activities, to determine the average length of hospital stay for patients. (~~(These data were published in a book entitled, Length of Stay in PAS Hospitals, Western. The department has adopted this book as the basis for authorizing payment for the maximum number of inpatient hospital days for clients of state-funded programs, or where no memorandum of understanding with a professional review organization (PRO) exists.)~~)

"**Professional review organization for Washington (PRO-W)**" means the state level organization responsible for determining whether health care activities:

- \* Are medically necessary;
- \* Meet professionally acceptable standards of health care; and
- \* Are appropriately provided in an outpatient or institutional setting for beneficiaries of Medicare and clients of Medicaid and maternal and child health.

"**Prosthetic devices**" means replacement, corrective, or supportive devices prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice as defined by state law to:

- \* Artificially replace a missing portion of the body;
  - \* Prevent or correct physical deformity or malfunction;
- or
- \* Support a weak or deformed portion of the body.

"**Provider**" or "**provider of service**" means an institution, agency, or person:

- \* (~~(Having)~~) Who has a signed agreement with the department to furnish medical care (~~(and)~~), goods, and/or services to clients; and

- \* Is eligible to receive payment from the department.

"**Resources for an SSI-related client**" (~~(mean, for an SSI-related client,)~~) means cash or other liquid assets or any real or personal property that an individual or spouse, if any, owns and could convert to cash to be used for support or maintenance.

- \* If an individual can reduce a liquid asset to cash, it is a resource.
- \* If an individual cannot reduce an asset to cash, it is not considered an available resource.

\* Liquid ((-)) means properties that are in cash or are financial instruments which are convertible to cash such as, but not limited to, cash (~~(in hand, stocks)~~), savings, checking accounts, stocks, mutual fund shares, mortgage, or a promissory note((s)).

\* Nonliquid ((-)) means all other property both real and personal (~~(shall be)~~) evaluated (~~(according to)~~) at the price the item can reasonably be expected to sell for on the open market (~~(in the particular geographical area involved)~~).

"~~(Retroactivity)~~ Retroactive period" means the ~~(period of no more than)~~ three calendar months before the month of application (~~(month of an otherwise eligible person under the Federal aid Title XIX program)~~).

"Spell of illness" see "benefit period."

"Spendedown" means the process by which a person uses incurred medical expenses to offset income and/or resources to meet the financial standards established by the department.

"Spouse" means:

\* "Community spouse" means a person living in the community and married to an institutionalized person or to a person receiving services from a home and community-based waived program as described under chapter 388-515 WAC.

\* "Eligible spouse" means an aged, blind or disabled husband or wife of an SSI-eligible person, with whom such ~~(spouse)~~ a person lives.

\* "Essential spouse" means, ~~(for the purposes of SSI,)~~ a ~~(spouse)~~ husband or wife whose needs were taken into account in determining ~~(the need of an)~~ old age assistance (OAA), aid to the blind (AB), or disability assistance (DA) client for December 1973, who continues to live in the home and to be the spouse of such client.

\* "Ineligible spouse" means the husband or wife of an SSI-eligible person, who lives with the SSI-eligible person and who has not applied or is not eligible to receive SSI.

\* "Institutionalized spouse" means a married person in an institution or receiving services from a home or community-based waived program.

\* "Nonapplying spouse" means ~~(the)~~ an SSI-eligible person's husband or wife, who has not applied for assistance ~~(of an SSI-eligible person)~~.

"SSI-related" means an aged, blind or disabled person not receiving an SSI cash grant.

~~(("State office or SO" means the medical assistance administration of the department of social and health services.))~~

"Supplemental security income (SSI) program, Title XVI" means the federal grant program for aged, blind, and disabled established by section 301 of the Social Security amendments of 1972, and subsequent amendments, and administered by the Social Security Administration (SSA).

"Supplementary payment (SSP)" means the state money payment to persons receiving benefits under Title XVI, or who would, but for the person's income, be eligible for such benefits, as assistance based on need in supplementation of SSI benefits. This payment includes:

\* "Mandatory state supplement" means the state money payment to a person who, for December 1973, was a client receiving cash assistance under the department's

former programs of old age assistance, aid to the blind and disability assistance; and

\* "Optional state supplement" means the elective state money payment to a person eligible for SSI benefits or who, except for the level of the person's income, would be eligible for SSI benefits.

"Third party" means any entity that is or may be liable to pay all or part of the medical cost of care of a ~~(federal Medicaid or state)~~ medical ~~(care)~~ program client.

"Title XIX" is the portion of the federal Social Security Act that authorizes grants to states for medical assistance programs. Title XIX is also called Medicaid.

"Transfer" means any act or omission to act when title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person; including delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing an interest in property. Transfer of title to a resource occurs by:

\* An intentional act or transfer; or

\* Failure to act to preserve title to the resource.

"Value-fair market for an SSI-related person" means ~~(, for SSI-related medical eligibility,)~~ the current value of a resource at the ~~(going)~~ price for which the resource can reasonably be expected to sell on the open market ~~(in the particular geographic area involved)~~.

"Value of compensation received" means, for SSI-related medical eligibility, the gross amount paid or agreed to be paid by the purchaser of a resource.

"Value-uncompensated" means, for SSI-related medical eligibility, the fair market value of a resource, minus the amount of compensation received in exchange for the resource.

AMENDATORY SECTION (Amending WSR 97-03-036, filed 1/9/97, effective 2/9/97)

**WAC 388-503-0310 Categorically needy eligible persons.** ~~(The department shall determine)~~ A person eligible for categorically needy medical assistance ~~(a client who)~~ is:

(1) Not eligible for or receiving temporary assistance for needy families (TANF) cash benefits but who meets the eligibility criteria for aid to families with dependent children (AFDC) that were in effect on July 16, 1996 except the person's:

(a) Earned income is treated as described under WAC 388-507-0740; and

(b) Resources are treated as described under WAC 388-505-0580.

This group shall include, but is not limited to, the special situations described under WAC 388-507-0740.

(2) Receiving or eligible to receive a cash assistance payment under:

(a) ~~(Aid to families with dependent children-)~~ TANF. For the purpose of determining eligibility for a medical program, any reference to AFDC(9) includes TANF; or

(b) Supplemental security income (SSI) including a grandfathered person and a person with an essential spouse; or

(c) State supplemental payment (SSP) to a person as assistance based on need in supplementation of SSI benefits. This payment includes mandatory state supplement or optional state supplement as defined under WAC 388-500-0005. The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse is not eligible for noninstitutional categorically needy medical assistance.

~~((2))~~ (3) A person twenty years of age or younger who ~~((meets the))~~:

(a) ~~Meets the one-person ((AFDC)) TANF~~ financial requirements and is in:

(i) ~~(Foster care; or~~

~~(ii) Subsidized adoption; or~~

~~(iii))~~ A nursing facility or intermediate care facility for mentally retarded (ICF/MR); or

~~((iv))~~ (ii) An approved inpatient psychiatric facility.

(b) ~~((Eligibility requirements under chapter 388-509 WAC))~~ Is in foster care; or

(c) Receives subsidized adoption.

~~((3))~~ (4) A current client of Title II, Social Security Administration (SSA) benefits who:

(a) Was a concurrent client of Title II and SSI benefits;

(b) Is ineligible for SSI benefits and/or state supplementary payments; and

(c) Would be eligible for SSI benefits if the department deducts the following from the current Title II benefit amount:

(i) All Title II cost-of-living benefit increases under P.L. 94-566, Section 503 received by the client since termination from SSI/SSP; and

(ii) All Title II cost-of-living benefit increases received during the time period in subsection ~~((3))~~ (4)(c)(i) of this section by the client's spouse and/or other financially responsible family member living in the same household.

~~((4))~~ (5) An SSI client, after January 1, 1981, who continues to be eligible for medical assistance under P.L. 96-265 and 99-643;

~~((5))~~ (6) A currently disabled client receiving widow's or widower's benefits under Section 202 (e) or (f) of the Social Security Act if the disabled client:

(a) Was entitled to a monthly insurance benefit under Title II of the Social Security Act for December 1983; ~~((and))~~

(b) Was entitled to and received a widow's or widower's benefit based on a disability under Section 202 (e) or (f) of the Social Security Act for January 1984;

(c) Became ineligible for SSI/SSP in the first month in which the increase provided under Section 134 of P.L. 98-21 was paid to the client;

(d) Has been continuously entitled to a widow's or widower's benefit under Section 202 (e) or (f) of the act;

(e) Would be eligible for SSI/SSP benefits if the amount of that increase, and any subsequent cost-of-living increases provided under Section 215(i) of the act, were disregarded;

(f) Is fifty through fifty-nine years of age; and

(g) Filed an application for Medicaid coverage before July 1, 1988.

~~((6) Effective January 1, 1991;)~~

(7) Any person receiving Title II disabled widow/widower benefits (DWB) under Section 202 (e) or (f) of the SSA, if the person:

(a) Is not eligible for the hospital insurance benefits under Medicare Part A of Title XVIII;

(b) Received SSI/SSP payments in the month before receiving such Title II benefits;

(c) Became ineligible for SSI/SSP due to receipt of or increase in such Title II benefits; and

(d) Would be eligible for SSI/SSP if the amount of such Title II benefits or increase in such Title II benefits under Section 202 (e) or (f) of the SSA, and any subsequent cost-of-living increases provided under Section 215(i) of the act were disregarded.

~~((7))~~ (8) A disabled or blind client receiving Title II Disabled Adult Childhood (DAC) benefits under Section 202(d) of the SSA if the client:

(a) Has attained eighteen years of age;

(b) Lost SSI/SSP on or after July 1, 1988, due to receipt of or increase in DAC benefits; and

(c) Would be eligible for SSI/SSP if the amount of the DAC benefits or increase under Section 202(d) of the SSA and any subsequent cost-of-living increases provided under Section 215(i) of the SSA Act were disregarded.

~~((8))~~ (9) A client who:

(a) In August 1972, received:

(i) Old age assistance (OAA);

(ii) Aid to blind (AB);

(iii) Aid to families with dependent children (AFDC); or

(iv) Aid to the permanently and totally disabled (APTD);

~~((and))~~

(b) Was entitled to or received retirement, survivors, and disability insurance (RSDI) benefits; or

(c) Is ineligible for OAA, AB, AFDC, SSI or APTD solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.

~~((9))~~ (10) A pregnant woman whose family income is at or below one hundred eighty-five percent of the Federal Poverty Level (FPL), or postpartum woman as described under WAC 388-508-0830;

~~((10))~~ (11) A child, born to a woman eligible for and receiving medical assistance on the date of the child's birth, from the date of birth for a period of one year when the child remains a member of the mother's household;

~~((11))~~ (12) A child ~~((eighteen years of))~~ under age ~~((or younger))~~ nineteen meeting residence, citizenship, and Social Security number requirements whose countable family income is at or under two hundred percent of the FPL.

~~((12) In)~~ (13) A family ~~((unit))~~ who is ineligible for ~~((AFDC financial))~~ medical assistance ~~((as a result (wholly or in part)))~~ because of the collection or increased collection of child or spousal support ~~((shall be))~~. The family is eligible for medical assistance for four months beginning with the month of ineligibility~~((;))~~ if the family ~~((unit))~~ received ~~((AFDC financial))~~ medical assistance in at least three of the six months immediately preceding the month of ineligibility;

~~((13) In a family unit which becomes ineligible for AFDC before April 1, 1990, solely because of increased hours or increased income from employment shall remain~~



~~categorically eligible for medical assistance for four calendar months beginning with the month of ineligibility, provided:~~

~~(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility; and  
(b) A member of such family continues to be employed; and~~

~~(c) The department considers earned income tax credits (EITC) as income for the purposes of this subsection.))~~

~~(14) Denied ((AFDC)) TANF cash payments solely because of a departmental recovery of an overpayment;~~

~~(15) In a medical facility and:~~

~~(a) Who would be eligible for cash assistance if the person was not institutionalized; or~~

~~(b) Is an SSI-related institutionalized person and has gross income above the cash assistance level but below three hundred percent of the Federal Benefit Rate as defined under WAC 388-250-1700.~~

~~(16) Sixty-five years of age or older, a patient in an institution for mental diseases (IMD), and is resource and income eligible as described under subsection (15)(a) or (b) of this section;~~

~~(17) ((A person)) Eligible for and accepting hospice services as described under WAC 388-86-047 and who ((shall be)) is:~~

~~(a) SSI categorically related with gross income less than three hundred percent of the SSI Federal Benefit Rate; or~~

~~(b) AFDC or TANF categorically related.~~

~~(18) Blind or presumptively disabled under SSI criteria, as described under WAC 388-511-1105, and the person receives continuing general assistance (GA-X) cash assistance;~~

~~(19) An alien ineligible for ((AFDC)) TANF or SSI cash assistance because of deeming of income of the alien's sponsors as described under WAC 388-218-1695;~~

~~(20) ((Not an inmate of a public institution;~~

~~(21) Not receiving cash assistance because of special situations as defined under WAC 388-507-0740; or~~

~~(22)) A client who:~~

~~(a) Was entitled to RSDI benefits in August 1972; and~~

~~(b) Is ineligible for ((AFDC)) TANF or SSI solely because of the twenty percent increase in Social Security benefits under PL 92-336.~~

~~(21) A child receiving SSI payments on August 22, 1996, and who, but for the passage of the new disability definition would continue to be paid SSI benefits;~~

~~(22) Not an inmate of a public institution.~~

AMENDATORY SECTION (Amending Order 3983, filed 6/6/96, effective 7/7/96)

WAC 388-505-0520 Citizenship ((and alien status)).  
~~((1) The department shall provide Medicaid to)) An otherwise eligible person ((who is)) may receive Medicaid when the person is:~~

~~((a)) (1) A citizen or national of the United States; ((or  
(b)) (2) A North American Indian born in Canada claiming ((fifty percent)):~~

~~((+)) (a) Fifty percent Indian blood; or~~

~~((+)) (b) Less than fifty percent Indian blood ((and who)) when the person has maintained United States residency since ((before)) December 25, 1952((-~~

~~(c) An alien lawfully admitted for permanent residence or otherwise permanently residing under color of law (PRUCOL) in the United States; or~~

~~(d) An alien lawfully present in the United States according to sections 203 (a)(7), 207(e), 208, and 212 (d)(5) of the Immigration and Nationality Act (INA); or~~

~~(e) An alien granted lawful temporary residence, or permanent residence according to sections 245(a), 210, 210(f), and 210A of INA and sections 202 and 302 of the Immigration Reform and Control Act (IRCA), unless five years from the date Immigration and Naturalization Service (INS) grants lawful temporary resident status has not passed; or~~

~~(f) An alien approved by the INS under the family unity program, unless five years from the date INS grants lawful temporary resident status for the petitioning relative has not passed.~~

~~(2) When an alien as described under subsection (1)(c) or (f) of this section has not passed the five-year disqualification period, the department shall provide Medicaid to an otherwise eligible person when the alien is:~~

~~(a) Aged, blind, or disabled; or~~

~~(b) Seventeen years of age or under; or~~

~~(c) Pregnant; or~~

~~(d) A Cuban/Haitian entrant as defined in sections 501 (e)(1) and (2)(A) of P.L. 96-422.~~

~~(3) When an alien as described under subsection (1)(c) or (f) of this section is still under the five-year disqualification period, and is not described under subsection (2) of this section, the department shall provide medical care and services as necessary for treatment of the alien's emergency medical condition as defined under WAC 388-500-0005.~~

~~(4) For any other alien, when such alien meets the eligibility requirements of a Medicaid program other than citizenship or alien status requirements, the department shall provide Medicaid as follows:~~

~~(a) Full scope medical services for a pregnant woman; or~~

~~(b) Medical care and services as necessary for treatment of the alien's emergency medical condition as defined under WAC 388-500-0005.~~

~~(5) Medical care services and children's health programs do not require citizenship/alien status); or~~

~~(3) A noncitizen who is otherwise eligible and who meets provisions described in chapter 388-510 WAC.~~

AMENDATORY SECTION (Amending Order 3954, filed 3/13/96, effective 4/13/96)

WAC 388-507-0740 Special situations. (1) ((The department)) A client shall ((not allow the AFDC thirty dollars plus one third earned income exemption for clients applying solely for medical assistance, unless the conditions under subsection (2) of this section apply)) receive a fifty percent family earned-income exemption and the actual dependent care amount deduction described in WAC 388-505-0590 when the client:

(a) Applies for or receives temporary assistance for needy families (TANF) cash benefits;

(b) Applies for or receives TANF-related medical only benefits; or

(c) Is not eligible for or receiving TANF benefits but who meets the eligibility criteria for AFDC that were in effect on July 16, 1996.

This subsection does not apply to a client described in subsection (2) of this section.

(2) ((The department)) A client shall ((allow the exemption in subsection (1) of this section when the family has:

(a) Received AFDC cash assistance in one of the four preceding months; and

(b) Not already received the exemption for a maximum of four consecutive months; or

(c) Already received the exemption for the maximum period, but has subsequently not received AFDC cash assistance for at least twelve consecutive months)) receive a ninety dollar earned-income exemption, and the actual dependent care amount deduction, when a client applies for or receives noncash medical only benefits described under chapter 388-508 WAC, Pregnant women medical eligibility and chapter 388-509 WAC, Children's medical eligibility.

(3) ((The department shall consider an AFDC client terminated from cash assistance as)) A person is eligible for Medicaid ((when termination was solely due to an AFDC client:

(a) Ceasing to attend school; or

(b) Refusing)) if the person:

(a) Would be eligible for, but chooses not to receive, TANF; or

(b) Is not eligible for or receiving TANF solely because the person:

(i) Has received sixty months of financial assistance or is a member of an assistance unit which has received sixty months of financial assistance;

(ii) Is not attending school;

(iii) Refuses to participate in ((the job opportunities and basic skills (JOBS) training program)) TANF work activities;

(iv) Is an unmarried minor parent and is not in a department-approved living situation as described under WAC 388-215-1660;

(v) Is a parent or caretaker relative who fails to notify the department within five days of the date the child leaves the home and the child's absence will exceed ninety days as described under WAC 388-215-1115;

(vi) Is a fleeing felon or fleeing to avoid prosecution for a felony charge, or a probation and parole violator;

(vii) Is convicted of a drug-related felony as described under WAC 388-215-1570;

(viii) Is convicted of receiving benefits unlawfully as described under WAC 388-46-110;

(ix) Is convicted of misrepresenting residence to obtain assistance in two or more states as described under WAC 388-46-120; or

(x) Has gross earnings exceeding the TANF gross income standard.

(4) ((The department shall not consider)) Diversion cash assistance, issued under chapter 388-222 WAC, is exempt income when determining eligibility for a medical program.

(5) The following requirements do not apply to a TANF-related family applying for or receiving medical assistance:

(a) Work quarters as described under WAC 388-215-1385; or

(b) Unemployment as described under WAC 388-215-1375.

(6) The transfer of a resource ((when determining)) does not affect the medical program eligibility for a person who is not institutionalized. For an institutionalized client, refer to WAC 388-513-1365.

## NEW SECTION

**WAC 388-510-1005 Definitions—Aliens. "Legal immigrant"** means an alien residing in the United States who is lawfully present with intent to remain. A legal immigrant includes, but is not limited to, an alien meeting PRUCOL criteria.

**"Nonimmigrant"** means an alien legally residing in the country but without an intent to remain permanently or who is not lawfully present.

**"PRUCOL"** means a person permanently residing under color of law.

**"Qualified alien"** means an alien:

(1) Who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 U.S.C. 12, Sec. 101 (a)(20));

(2) Who is a refugee admitted to the United States under section 207 of such Act;

(3) Who is granted asylum under section 208 of Act;

(4) Whose deportation is being withheld under section 243(h) of such Act;

(5) Who is paroled into the United States under section 212 (d)(5) of such Act for a period of at least one year;

(6) Who is granted conditional entry under section 203 (a)(7) of such Act as in effect prior to April 1, 1980;

(7) Who is a victim of domestic violence or an immigrant child that has been battered or subjected to extreme cruelty when:

(a) The immigrant petitions for legal status under section 204(a) of the INA or a petition for suspension of deportation under section 244(a) of the INA; and

(b) The person responsible for the battery no longer resides with the immigrant.

(8) Who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980; or

(9) Who is an Amerasian immigrant as defined in the Balanced Budget Agreement of 1997.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-510-1020 Alien—Eligibility.** ((The department shall provide Medicaid to an otherwise eligible person who meets the criteria as described under WAC 388-505-0520.)) (1) For the purpose of determining eligibility for a medical program, the terms **"qualified alien"** or **"nonqualified alien"** indicates the immigration status of the alien, not the eligibility status for a particular medical program.

(2) An alien receiving temporary assistance for needy families (TANF) or Supplemental Security Income (SSI) is eligible for Medicaid.

(3) A qualified alien as described in WAC 388-510-0005 is eligible for categorically needy (CN) Medicaid who:

(a) Arrived in the United States on or before August 21, 1996; and

(b) Is otherwise eligible for a Medicaid program.

(4) A legal immigrant is eligible for state-funded CN scope of care who:

(a) Arrived in the United States on or before August 21, 1996;

(b) Would be eligible for a Medicaid program but for immigration status; and

(c) Does not meet the definition of qualified alien in WAC 388-510-1005.

(5) An alien is eligible for CN Medicaid who:

(a) Arrived in the United States on or after August 22, 1996;

(b) Is otherwise eligible for to a Medicaid program; and

(c) Is a refugee, an asylee, an alien who has had deportation withheld, a Cuban/Haitian or an Amerasian as described in WAC 388-510-1005;

(d) Is an alien who is active duty with the United States military;

(e) Is an honorably discharged veteran of the United States Armed Forces, including the following who fought on behalf of the United States:

(i) Filipino soldiers in World War II;

(ii) Hmong and Lao soldiers during the Vietnam conflict;

(iii) The spouse or unmarried dependent child of a veteran described in subsection (5)(d) or (e) of this section.

(f) Is a qualified alien who has resided in the United States for five years.

(6) A family with child(ren) is eligible for state-funded CN scope of care who:

(a) Arrived in the United States on or after August 22, 1996;

(b) Has resided in Washington for twelve-consecutive months as described under WAC 388-215-1210; and

(c) Is determined eligible for or receiving state family assistance (SFA).

(7) A legal immigrant who does not meet the alien criteria described under subsection (5)(c), (d), (e) or (f) of this section is eligible for state-funded medical care services, as described under WAC 388-529-2930, who:

(a) Arrived in the United States on or after August 22, 1996; and

(b) Is determined eligible for and is receiving financial assistance under the general assistance - unemployable (GA-U) program.

(8) A noncitizen pregnant woman is eligible for state-funded CN scope of care:

(a) Who is not eligible for coverage under a CN Medicaid program;

(b) Regardless of date of arrival into the United States; and

(c) Who would be eligible under chapter 388-508 WAC.

(9) A noncitizen child is eligible for state-funded CN scope of care under the children's health program:

(a) Who is not eligible for coverage under a CN Medicaid program;

(b) Regardless of date of arrival into the United States; and

(c) Who would be eligible under WAC 388-509-0920.

(10) Regardless of the date of arrival into the United States, a noncitizen who meets Medicaid eligibility requirements, other than citizenship, is eligible for emergency medical care and services:

(a) Only for the necessary treatment of an emergency medical condition as defined under WAC 388-500-0005; and

(b) With the exception of routine prenatal or postpartum care or organ transplants as defined in WAC 388-87-115(2).

(11) Refer to chapter 388-518 WAC, Limited casualty program—Medically indigent for a noncitizen who:

(a) Does not meet Medicaid program requirements;

(b) Has an emergency medical condition; or

(c) Requires an organ transplant.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-523-2305 Medical extensions.** (1) Refer to:

(a) WAC 388-508-0830 for extensions for a pregnant woman; and

(b) WAC 388-508-0835 for the family planning extension.

(2) A family (~~unit~~) ineligible for (~~AFDC cash~~) medical assistance because of the collection or increased collection of child or spousal support (~~shall be~~), is eligible for medical assistance for four months beginning with the month of ineligibility, provided the family (~~unit~~):

(a) Is eligible for and received (~~AFDC cash~~) medical assistance in three or more of the six months immediately preceding the month of ineligibility; and

(b) Continues to meet all AFDC or temporary assistance for needy families (TANF) eligibility criteria except income.

(3) (~~The department shall find eligible for medical assistance, an AFDC~~) A family (~~unit which becomes~~), ineligible for or requesting termination from medical or cash assistance because of (~~:~~

~~(a))~~ income from, or hours of, employment of the caretaker relative(~~;~~ or

~~(b) The loss of the thirty dollars plus one-third earned income deduction; or~~

~~(c) The loss of the thirty-dollar earned income deduction. Such AFDC family unit as described under (a), (b), or (c) of this subsection)) shall remain eligible for medical assistance for six calendar months when the family (~~unit~~):~~

~~((+)) (a) Received (~~AFDC~~) medical assistance in three or more of the six months immediately preceding the month of ineligibility; and~~

~~((+)) (b) Includes a child.~~

(4) The (~~AFDC~~) family (~~unit~~), under subsection (3) of this section, shall be:

(a) Eligible for six additional calendar months of medical assistance provided the family (~~unit~~):

(i) Continues to include a child; and

(ii) Received medical assistance for the entire six-month extension under subsection (3) of this section; and

(iii) Reports any family earnings and child care costs related to the employment of the caretaker relative for the preceding three-month period. The client shall report by the twenty-first day of the fourth month of the initial extension, unless good cause is established.

(b) Terminated from the six additional calendar months of medical assistance when the:

(i) Family's average gross monthly earned income, less the cost of child care related to employment of the caretaker relative, exceeds one hundred eighty-five percent of the Federal Poverty Level when averaged over the immediately preceding three-month period; or

(ii) Caretaker relative has no earnings in one or more of the three previous months, unless lack of earnings is due to good cause.

(5) An AFDC or TANF family member shall not be eligible for the extensions in subsections (3) and (4) of this section when the department finds the person ineligible for AFDC or TANF in any of the last six months before the extension because of fraud.

**WSR 98-09-001**  
**EMERGENCY RULES**  
**DEPARTMENT OF LICENSING**

[Filed April 1, 1998, 1:17 p.m.]

Date of Adoption: March 27, 1998.

Purpose: Implementation of SSB 6603, 1998 legislative session effective immediately upon signing, amend chapter 308-93 WAC and add two new sections to chapter 308-93 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 308-93-010, 308-93-050, and 308-93-640; and new sections WAC 308-93-055 [and 308-93-056].

Statutory Authority for Adoption: SSB 6603, 1998 legislative session.

Other Authority: RCW 88.02.070.

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: SSB 6603 is effective immediately upon signing.

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 4, 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 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 4, Repealed 0.

Effective Date of Rule: Immediately.

March 27, 1998  
 Evelyn P. Yenson  
 Director

AMENDATORY SECTION (Amending WSR 96-16-038, filed 8/1/96, effective 9/1/96)

**WAC 308-93-010 Definitions.** Unless the context clearly indicates otherwise, the following definitions apply to the rules in this chapter:

(1) "Alien vessel" means a vessel owned by a resident of a country other than the United States.

(2) "Carpenter certificate" means a certificate issued by a manufacturer describing the vessel for which such certificate is issued and certifying the first conveyance of said vessel after its manufacture.

(3) "Commercial fishing vessel" means a vessel primarily used for commercial or charter fishing.

(4) "Declaration of value form" means the department of revenue form used to declare the value for purposes of assessing excise tax when a vessel is acquired by lease, trade, gift, homemade, or the most recent purchase price is not known to declare the value for purposes of assessing excise tax.

(5) "Director" means the director of the department of licensing.

(6) "Documented vessel" means a vessel that is documented by the United States Coast Guard and is issued a valid marine certificate.

(7) "Exclusively" means solely and without exception.

(8) "Foreign vessel" means a vessel owned by a resident of another state registered in accordance with the laws of the state in which the owner resides.

(9) "Legal owner" means a person, business, or institution having a security interest in a vessel perfected in accordance with RCW 46.12.095 or the registered owner of a vessel unencumbered by a security interest or the lessor of a vessel unencumbered by a security interest.

(10) "Lifeboat" means craft used exclusively for lifesaving purposes.

(11) "Manufacturer's statement of origin (MSO)" means a certificate issued by a manufacturer describing the vessel for which such certificate is issued and certifying the first conveyance of said vessel after its manufacture.

(12) "Out of country vessel" means a vessel registered or numbered by the laws of a country other than the United States or has a valid United States Custom Cruising Permit.

(13) "Overall length" means a straight line measurement of the overall distance from the foremost point of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bow sprits, bumpkins or boomkins, rudders, outboard motor brackets, outdrive units, propellers, and similar fittings or attachments are not included in the measurement.

((14)) (14) "Prebill" and "no bill" means the notice to renew a vessel registration that is mailed by the department to the registered owner.

((15)) (15) "Previous ownership document" means the last issued certificate of title and/or registration.

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~~((15))~~ (16) "Primarily" means the principal purpose for which a vessel is used when considered in conjunction with all of its uses.

~~((16))~~ (17) "Propulsion machinery" means any device providing motion to a vessel through such means as combustion, steam, or electric machinery.

~~((17))~~ (18) "Registered owner, owner," synonymous terms used interchangeably, mean a person who has a lawful right to possession of a vessel, whether or not the vessel is subject to a security interest.

~~((18))~~ (19) "Tender" means a craft used exclusively to furnish transportation from a larger vessel to shore and return.

~~((19))~~ (20) "Use of waters" means to navigate, operate, employ, or moor any vessel upon the waters.

~~((20))~~ (21) "Valid marine document" means a document issued by the United States Coast Guard which declares a vessel to be a documented vessel of the United States.

~~((21))~~ (22) "Vessel data form" means the information application completed by the applicant showing all required description data for the vessel registration and title.

~~((22))~~ (23) "Waters of this state" means any waters within the territorial limits of this state.

~~((23))~~ (24) "Time share charters" means leased vessels where none of the parties leasing the vessel under a "time share" option agreement are acquiring an equity in the vessel and there is no option to buy.

~~((24))~~ (25) "Houseboat" means any vessel as defined in RCW 88.02.010(1) and does not mean any building on a float used in whole or in part for human habitation as a single-family dwelling which is not designed for self propulsion by mechanical means, or for propulsion by means of wind, nor propelled by mechanical means or wind.

~~((25))~~ (26) "Cruising license" means an annual certificate issued by U.S. customs service pursuant to 19 C.F.R. Sec. 4.94, which exempts pleasure boats from certain countries from formal entry and clearance procedures, from payment of tonnage tax and clearance fees at all but the first port of entry.

**AMENDATORY SECTION** (Amending WSR 96-16-038, filed 8/1/96, effective 9/1/96)

**WAC 308-93-050 Vessels exempted from registration, excise tax and titling.** The following vessels are exempt from registration, titling, and the assessment of excise tax:

(1) Vessels exempt from registration pursuant to RCW 88.02.030;

(2) ~~(Vessels that have been issued a valid number under federal law or by an approved issuing authority of the state of principal operation, unless the vessel is physically located in this state for a period of more than sixty days in any twelve-month period. A vessel that is validly registered in another state but is removed to this state for principal use is subject to titling, registration and assessment of excise taxes, unless otherwise exempt;~~

(3) Vessels primarily engaged in commerce which have or are required to have a valid marine document as a vessel of the United States, including but not limited to:

(a) Commercial fishing vessels;

(b) Barges;

(c) Charter vessels, including, bare boat and time share charters(-);

~~((4))~~ (3) Vessels owned by Indian tribes and tribal members as provided in WAC 308-93-700 through 308-93-770;

(4) A vessel that is validly registered in another state but is removed to this state for principal use is subject to titling, registration and assessment of excise taxes on the sixty-first day of being in this state unless otherwise exempt.

**NEW SECTION**

**WAC 308-93-055 Foreign vessels operating in this state—Identification document required.** (1) Beginning January 1, 1998, the owner of a foreign vessel having been issued a valid number under federal law or by an approved issuing authority of the state of principal operation, whose vessel is remaining in this state for personal use or enjoyment for more than sixty days of use shall:

(a) Obtain a two month identification document issued by the department, its agents or subagents on or by the sixty-first day. The second identification document shall be purchased on or by the one hundred twenty-first day of use in this state;

(b) Indicate when the vessel first came into the state;

(c) Pay a nonrefundable fee of twenty-five dollars plus a filing fee and subagent fee, if applicable, per identification document;

(d) Provide proof of nonresidency by showing the vessel owner's out-of-state driver's license or out-of-state photo identification;

(e) Provide proof of current foreign vessel registration or current United States Coast Guard certificate of documentation;

(f) Not use more than two identification documents in any continuous twelve-month period. The twelve months begins on the date the vessel first entered this state;

(g) Keep the identification document placard and temporary registration on the vessel while on the waters of this state;

(h) Display the identification document placard in a location that is visible at all times from outside the vessel. The placard shall be protected from weathering.

(2) If the vessel owner is not available, the person applying for the vessel identification document shall have a notarized/certified power of attorney from a registered owner of the vessel.

**NEW SECTION**

**WAC 308-93-056 Out of country vessels operating in this state—Identification document required.** (1) Beginning March 27, 1998, the owner of an out of country vessel having been issued a valid number or registration by a country other than the United States or a United States Customs Cruising Permit, whose vessel is remaining in this state for personal use or enjoyment for more than sixty days of use shall:

(a) Obtain a permanent identification document issued by the department, its agents or subagents on or by the sixty-first day;

(b) Indicate when the vessel first came into the state;

(c) Pay a nonrefundable fee of twenty-five dollars plus a filing fee and subagent fee, if applicable;

(d) Provide proof the out of country vessel is currently registered or numbered, or a valid United States Customs Cruising Permit, state driver's license or out-of-state photo identification at time of application;

(e) Keep the identification document placard and registration on the vessel while on the waters of this state;

(f) Display the identification document placard in a location that is visible at all times from outside the vessel. The placard shall be protected from weathering.

(2) If the vessel owner is not available, the person applying for the vessel identification document shall have a notarized/certified power of attorney from a registered owner of the vessel.

(3) The identification document is valid for the life of the out of country vessel. New owners may apply for a corrected registration listing the new owner's name and address. The new owner shall pay a nonrefundable fee of three dollars plus a filing fee and subagent fee, if applicable.

AMENDATORY SECTION (Amending Order TL-RG 8, filed 9/13/84)

**WAC 308-93-640 Reciprocity.** (1) A vessel owned by a resident of another state which is already covered by a number in full force and effect issued to it pursuant to federal laws or a numbering system of such state shall be exempt from registration requirements for a period of ~~((sixty days))~~ not more than six months in any continuous twelve-month period but only to the extent a similar reciprocity is granted for vessels registered in the state of Washington. However, on or before the sixty-first day of use in this state, the owner of a foreign vessel must obtain a two-month vessel identification document issued by the department, its agents or subagents in accordance with WAC 308-93-055.

(2) When a vessel is removed to the state of Washington as a new state of principal use, Washington shall recognize the validity of a number awarded by any other issuing authority for a period of at least sixty days before requiring numbering in this state.

**WSR 98-09-002  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 98-44—Filed April 1, 1998, 4:17 p.m.]

Date of Adoption: March 31, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-52-050.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is necessary for conservation and to maintain consistency between state and federal regulations. 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.

March 31, 1998

Bern Shanks

Director

NEW SECTION

**WAC 220-52-05000A Shrimp fishery—Coastal waters.** Notwithstanding the provisions of WAC 220-52-050, effective immediately until further notice it is unlawful in the coastal shrimp fishery to retain or land more than 500 pounds per fishing day of any incidentally taken bottomfish species or species complex, or to retain or land in excess of any daily, vessel, cumulative, or two-month cumulative limit established for the coastal bottomfish catch limits in WAC 220-44-050, whichever is the lesser amount, except that the maximum landing of sablefish taken per vessel trip may not exceed one daily trip limit.

**WSR 98-09-005**

**EMERGENCY RULES**

**DEPARTMENT OF**

**FISH AND WILDLIFE**

[Order 98-43—Filed April 2, 1998, 4:15 p.m.]

Date of Adoption: April 2, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-57-160, 220-57-505, and 220-57-515.

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

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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 hatchery spring chinook are projected to return to the Wind and White Salmon rivers in 1998. A one fish daily limit and a four fish season limit will be used to distribute the catch and effort in the two fisheries. Tributaries are managed with Yakima Indian Nation, and seasons are consistent with state/tribal negotiations that have occurred. 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 3, 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.

April 2, 1998  
 Ron Swatfigure  
 for Bern Shanks  
 Director

NEW SECTION

**WAC 220-57-16000L Columbia River tributaries.** Notwithstanding the provisions of WAC 220-56-180, WAC 220-57-315, WAC 220-57-505, and WAC 220-57-515, effective immediately through July 31, 1998, it is unlawful for any person to retain more than four salmon in total taken from the waters of the Klickitat, White Salmon, and Wind Rivers.

NEW SECTION

**WAC 220-57-50500A White Salmon River.** Notwithstanding the provisions of WAC 220-505:

(1) Effective immediately through July 31, 1998, special daily limit of one salmon greater than 12 inches in length upstream from the mouth to the powerhouse below Condit Dam.

(2) Effective immediately through June 15, 1998, special daily limit of one salmon greater than 12 inches in length upstream from the powerhouse below Condit Dam to 400 feet below Condit Dam.

**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 220-57-51500N Wind River.** Notwithstanding the provisions of WAC 220-56-105 and WAC 220-57-515, effective immediately through June 15, 1998, special daily limit of one salmon greater than 12 inches in length upstream from the mouth to markers 400 feet below Shipperd Falls. Night closure and non-buoyant lure restriction April 1 through May 31, 1998.

**WSR 98-09-014  
 EMERGENCY RULES  
 DEPARTMENT OF  
 FISH AND WILDLIFE**

[Order 98-46—Filed April 6, 1998, 4:33 p.m.]

Date of Adoption: April 6, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 220-56-310.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Use of the overall length of spot prawns was deleted for 1998-1999 in favor of using a standard measure of the eye stalk to the posterior end of the carapace. This allows for fishers to possess shrimp with the head off in the field, so long as the heads are retained. It is also easier to measure the carapace than a live, whole shrimp. This measurement was not fully captured in the permanent rule filing, and needs to be corrected. There is insufficient time to promulgate permanent rules before the opening of sport shrimp season.

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.

April 6, 1998  
 Larry Peck  
 for Bern Shanks  
 Director

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NEW SECTION

**WAC 220-56-31000Q Shellfish—Daily limits.** Notwithstanding the provisions of WAC 220-56-310, effective immediately until further notice the minimum size for spot prawns taken in all state waters except Shrimp District Five is one and three-sixteenths inch from the eye stalk to the juncture of the carapace and the abdomen.

**WSR 98-09-015  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 98-45—Filed April 6, 1998, 4:39 p.m.]

Date of Adoption: April 6, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-56-350.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules are necessary to conserve the resource and to provide maximum recreational harvest opportunity. These regulations implement proposed permanent regulations until permanent regulations become effective.

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.

April 6, 1998

Larry Peck  
for Bern Shanks  
Director

NEW SECTION

**WAC 220-56-35000S Clams other than razor clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-350, effective immediately until further notice, it is unlawful to harvest or possess clams, cockles, or

mussels taken for personal use from the following public tidelands during the closed periods herein, and lawful to harvest only during the open periods specified herein.

(1) Dabob Bay - All state-owned tidelands in Dabob Bay north of a line drawn from Camp harmony to Lindsays Beach are **closed** to the harvest of oysters the entire year, except as follows: State-owned tidelands from a row of tires at Camp Discovery south approximately 2,000 feet to a second row of tires, and state-owned tidelands beginning approximately 3/4 mile north of Camp Harmony extending approximately 1,200 feet north state-owned tidelands from markers and signs posted immediately north of the community of Lindsays Beach north to a line immediately north of Broadspit (identified by markers and signs) are **open immediately until further notice**.

(2) Kayak Point County Park - **Open** through April 15, 1998.

(3) Rendsland Creek - **Open** until further notice.

(4) Seahurst County Park - **Closed** April 16, 1998 until further notice.

(5) Useless Bay State Park - **Open** until further notice.

(6) Wolfe Property State Park - **Open** until further notice.

(7) Frye Cove - **Closed** until further notice.

(8) Pitship Point - **Closed** until further notice.

(9) Winas-Maylor Point-East - **Open** until further notice.

(10) Ben Ure (Ala) Spit - **Open** through June 15, 1998.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-35000R Clams other than razor clams—Areas and seasons. (98-04)

**WSR 98-09-022  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 98-47—Filed April 8, 1998, 11:25 a.m.]

Date of Adoption: April 7, 1998.

Purpose: Subsistence rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-32-05500M; and amending WAC 220-32-055.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of spring chinook are available for tribal subsistence fisheries. Seasons are consistent with state/tribal negotiations that occurred ear-

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lier this year. 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.

April 7, 1998  
Bern Shanks  
Director

NEW SECTION

**WAC 220-32-05500M Columbia River tributaries - Subsistence** Notwithstanding the provisions of WAC 220-32-055, effective immediately until further notice, it is unlawful for a person possessing treaty fishing rights under the Yakima treaty to take or possess salmon taken for subsistence purposes from the Yakima River, Klickitat River, Wind River, White Salmon River, and Ringold in the Columbia River except under the following provisions:

1) In the Yakima River in the vicinity of Horn Rapids Dam and Wapato Dam, and where the Yakima River borders the reservation, fishing is allowed from noon Wednesday to 6 p.m. Saturday each week from April 8 to June 20.

2) In the Klickitat River from the site of the former Swinging Bridge (RM1.5) upstream to Fishway Number 5 (RM2.2), fishing is allowed from noon Wednesday to 6 p.m. Saturday each week from April 8 to May 30.

3) In the Wind River from the mouth to a marker 400 feet downstream of Shipperd Falls, fishing is allowed 6 a.m. Monday to 6 p.m. Saturday, each week effective immediately until June 6.

4) In the White Salmon River from the mouth to Condit Dam, fishing is allowed from 6 a.m. Monday to 6 p.m. Saturday each week effective immediately until June 13.

5) In the Columbia River from the marker located approximately 1/2 mile upstream of Spring Creek (Ringold Hatchery rearing pond outlet) downstream to a boundary marker approximately 1/4 mile downstream of Ringold wasteway outlet, fishing is allowed from 6 a.m. Monday to 6 p.m. Saturday, weekly between May 4 and July 25.

6) ALLOWABLE GEAR: Dipnets, setbag nets, or rod and reel with bait or lures. Any other fishing methods, such as snagging of fish, are unlawful.

7) OTHER RULES: It shall be unlawful to place fishing platforms, or to take, molest, injure, or fish for salmon and steelhead within 25 feet of the dam or any fish ladder, fish-

way, or fish bypass pipes. Fishing is not allowed from boats or any other floating devices, except in the Wind River.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. July 25, 1998:

WAC 220-32-05500M Columbia River tributaries—Subsistence.

**WSR 98-09-028  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 98-48—Filed April 9, 1998, 3:08 p.m., effective April 15, 1998, 12:01 a.m.]

Date of Adoption: April 9, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000U; and amending WAC 220-56-360.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Test results show that adequate clams are available for harvest in Razor Clam Areas 1 and 2. Clams from these areas have been certified by the Department of Health as safe for human consumption. 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: April 15, 1998, 12:01 a.m.

April 9, 1998  
Bern Shanks  
Director

EMERGENCY

NEW SECTION

**WAC 220-56-36000U Razor clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, or 3, except as provided for in this section:

(1) Effective 12:01 a.m. April 15 through 11:59 a.m. April 15, 1998, between 12:01 a.m. and 11:59 a.m. only, razor clam digging is allowed in the following areas: Razor Clam Area 1 and Razor Clam Area 2.

(2) It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:00 noon April 15, 1998:

WAC 220-56-36000U Razor clams—Areas and seasons.

emergency rules are necessary to restore prior eligibility requirements so as to preclude 4000 clients from having their chore, COPEs, and Medicaid personal care services terminated.

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 7, 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 7, 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.

April 13, 1998  
Philip A. Wozniak  
Director, ASD

**WSR 98-09-042**

**EMERGENCY RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Adult Services Administration)

[Filed April 14, 1998, 1:55 p.m.]

Date of Adoption: April 10, 1998.

Purpose: The 1998 supplemental budget contains sufficient funding for FY 1998 to negate recent rule changes to program eligibility for the COPEs, chore and Medicaid personal care programs which were adjusted to reduce expenditures. As a result, the department will restore the previous functional eligibility requirements for these programs.

Citation of Existing Rules Affected by this Order: Amending WAC 388-15-201 Long-term care functional eligibility, 388-15-209 Chore personal care services—Eligibility, 388-15-222 Chore personal care services—Employed disabled—Incentive income and resource exemption, 388-15-610 COPEs—Eligibility, 388-15-830 Medicaid personal care services—Eligibility, 388-15-890 Medicaid personal care services—Program limitations, and 388-15-895 Termination of services.

Statutory Authority for Adoption: RCW 74.39A.110, [74.39A.]120, and [74.39A.]130, and sections 205 (1)(c) and 206(3), chapter 346, Laws of 1998.

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 legislature provided additional funding in the 1999 [1998] supplemental budget (sections 205 (1)(c) and 206(3), chapter 346, Laws of 1998) to allow for caseload growth in the chore, Medicaid personal care and COPEs programs. The department finds that these

AMENDATORY SECTION (Amending WSR 98-04-026, filed 1/28/98, effective 2/28/98)

**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))~~
- (7) Self-medication;
- (8) Dressing;
- (9) Personal hygiene; or
- (10) Body care.

AMENDATORY SECTION (Amending WSR 98-04-026, filed 1/28/98, effective 2/28/98)

**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) 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((-));

EMERGENCY

(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 ~~((limits set in WAC 388-513-1310 (2)(a)(b) except for clients identified under WAC 388-15-222, and be))~~:

~~(i) Ten thousand dollars for a one-person family;~~

~~(ii) Fifteen thousand dollars for a two-person family;~~

~~(iii) 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 98-04-026, filed 1/28/98, effective 2/28/98)

**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.)~~

AMENDATORY SECTION (Amending WSR 98-04-026, filed 1/28/98, effective 2/28/98)

**WAC 388-15-610 COPES—Eligibility.** A COPES-eligible person shall:

(1) Be assessed by the department or designee as meeting the requirements in ((WAC 388-15-204)) 42 CFR 441.302(c) (as published in the Code of Federal Regulations and in effect in April, 1998); and

(2) Be an aged, blind, or disabled client, as defined under WAC 388-511-1105 (1)(a), (b), and (c)(i) and (ii);

(3) Be eighteen years of age or older;

~~((3))~~ (4) Be assessed as defined under WAC 388-15-202 through 388-15-205; and

(5) Have medical problems or cognitive impairment and be unable to maintain or coordinate the treatment plan; and

(6) 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;

(7) 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

(8) 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

(9)(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 (7)(a) through (g) of this section; or

(10) Require minimal, substantial or total assistance in three or more of the critical self-care tasks in subsection (7)(a) through (g) of this section; or

(11) 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

(12) Meet the definition of a person functionally or clinically eligible for nursing facility care as defined under WAC 388-97-235;

(13) Have a feasible written plan of care. The department shall ensure the plan is less than ninety percent of the average state-wide nursing facility rate; and

~~((4))~~ (14)(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.

((5)) (15) 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;

((6)) (16) Have resources at or below the Medicaid standard as defined under WAC 388-513-1315 (1)(b) and (c) and 388-513-1350; and

((7)) (17) Be reassessed at least every twelve months or more often as deemed necessary, per WAC 388-15-204.

**AMENDATORY SECTION** (Amending WSR 98-04-026, filed 1/28/98, effective 2/28/98)

**WAC 388-15-830 Medicaid personal care services—Eligibility.** (1) An eligible Medicaid personal care person shall:

(a) Meet the requirements in WAC 388-15-201; and

(b) Be certified as a Title XIX categorically needy medical assistance client;

~~((b-))~~ and

(c) 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) ~~((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)) (4) 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 98-04-026, filed 1/28/98, effective 2/28/98)

**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; ~~((e))~~

(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.

**AMENDATORY SECTION** (Amending WSR 98-04-026, filed 1/28/98, effective 2/28/98)

**WAC 388-15-895 Termination of services.** Clients who do not meet the functional eligibility requirements in WAC 388-15-201 or WAC 388-15-610, 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 98-09-044

#### EMERGENCY RULES

#### STATE BOARD FOR

#### COMMUNITY AND TECHNICAL COLLEGES

[Filed April 15, 1998, 9:30 a.m.]

Date of Adoption: April 10, 1998.

Purpose: Readoption of emergency rules so that rules can be extended until June 18, 1998, when they will be readopted on a permanent basis.

Citation of Existing Rules Affected by this Order: Amending WAC 131-16-010, 131-16-011, 131-16-021, 131-

16-031, 131-16-045, 131-16-050, 131-16-055, 131-16-056, and 131-16-061.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

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 emergency rules as shown below are extended until June 18, 1998, until our board can adopt the rules on a permanent basis along with other permanent rule adoptions in compliance with the Governor's Executive Order on Regulatory Reform.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 9, Repealed 0; Federal Rules or Standards: New 0, Amended 9, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 9, 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 9, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 9, 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 9, Repealed 0.

Effective Date of Rule: Immediately.

April 14, 1998

Claire C. Krueger

Administrative Rules Coordinator

AMENDATORY SECTION (Amending WSR 97-10-069, filed 5/5/97, effective 7/8/97)

**WAC 131-16-010 Designation of community and technical college system retirement plan.** There is hereby established for the eligible employees of the community and technical colleges of the state of Washington and the state board, a retirement plan which shall ~~((entitle))~~ provide such employees ~~((to purchase retirement annuities from))~~ with an employer sponsored retirement plan through the teachers' insurance annuity association (TIAA) and the college retirement equities fund (CREF), hereafter called ~~((the))~~ TIAA/CREF ~~((plan))~~, subject to the provisions of WAC 131-16-011 through 131-16-066. On and after January 1, 1998, this retirement plan is intended to comply with the requirements of a qualified plan under Section 403((b)) (a) of the Internal Revenue Code of 1986, as amended and the provisions of the plan document filed with the Internal Revenue Service on October 29, 1997. Prior to January 1, 1998, the plan was intended to comply with the requirements of Section 403(b) of the Internal Revenue Code of 1986, as amended. ((Notwithstanding the previous sentence, the state board shall reserve the right to modify the plan to qualify

~~under Section 403(a) of the Internal Revenue Code of 1986, as amended.))~~

AMENDATORY SECTION (Amending WSR 97-10-069, filed 5/5/97, effective 7/8/97)

**WAC 131-16-011 Definitions.** For the purpose of WAC 131-16-010 through 131-16-066, the following definitions shall apply:

(1) "Participant" means any employee who is eligible to purchase retirement annuities through the TIAA/CREF plan who, as a condition of employment, on and after January 1, 1997, shall participate in the TIAA/CREF plan upon initial eligibility.

(2) "Supplemental retirement benefit" means payments, as calculated in accordance with WAC 131-16-061, made by the state board to an eligible retired participant or designated beneficiary whose retirement benefits provided by the TIAA/CREF plan do not attain the level of the retirement benefit goal established by WAC 131-16-015.

(3) "Year of full-time service" means retirement credit based on full-time employment or the equivalent thereof based on part-time employment in an eligible position for a period of not less than five months in any fiscal year during which TIAA/CREF contributions were made by both the participant and a Washington public higher education institution or the state board or any year or fractional year of prior service in a Washington public retirement system while employed at a Washington public higher education institution: *Provided*, That the participant will receive a pension benefit from such other retirement system ~~((And provided further,))~~ and that not more than one year of full-time service will be credited for service in any one fiscal year.

(4) "Fiscal year" means the period beginning on July 1 of any calendar year and ending on June 30 of the succeeding calendar year.

(5) "Average annual salary" means the amount derived when the salary received during the two consecutive highest salaried fiscal years of full-time service for which TIAA/CREF contributions were made by both the participant and a Washington public higher education institution is divided by two.

(6) "TIAA/CREF retirement benefit" means the amount of annual retirement income derived from a participant's accumulated annuities including dividends at the time of retirement: *Provided*, That solely for the purpose of calculating a potential supplemental retirement benefit, such amount shall be adjusted to meet the assumptions set forth in WAC 131-16-061(2).

(7) "Salary" means all remuneration received by the participant from the employing college district or the state board, including summer quarter compensation, extra duty pay, leave stipends, and grants made by or through the college district or state board; but not including any severance pay, early retirement incentive payment, remuneration for unused sick or personal leave, or remuneration for unused annual or vacation leave in excess of the amount payable for thirty days or two hundred forty hours of service.

(8) "Designated beneficiary" means the surviving spouse of the retiree or, with the consent of such spouse, if any, such

other person or persons as shall have an insurable interest in the retiree's life and shall have been nominated by written designation duly executed and filed with the retiree's institution of higher education or the state board.

(9) "State board" means the state board for community and technical colleges (~~(education)~~) as created in RCW 28B.50.050.

(10) "Appointing authority" means a college district board of trustees or the state board or the designees of such boards.

AMENDATORY SECTION (Amending WSR 97-10-069, filed 5/5/97, effective 7/8/97)

**WAC 131-16-021 Employees eligible to participate in retirement annuity purchase plan.** (1) Eligibility to participate in the TIAA/CREF plan is limited to persons who hold appointments to college district or state board staff positions as full-time or part-time faculty members or administrators exempt from the provisions of chapter 28B.16 RCW and who are assigned a cumulative total of at least eighty percent of full-time workload as defined by the appointing authority at one or more college districts or the state board for at least two consecutive college quarters or ~~((who otherwise would be eligible for membership in))~~ whose employment meets the requirements for an "eligible position" as defined by the Washington state teachers retirement system.

(2) Participation in the plan is also permitted for current and former employees of college districts or the state board who are on leave of absence or who have terminated employment by reason of permanent disability and who are receiving a salary continuation insurance benefit through a plan made available by the state of Washington: *Provided*, That such noncontributory participation shall not be creditable toward the number of years of full-time service utilized in calculating eligibility for supplemental retirement benefits pursuant to WAC 131-16-061.

(3) ~~((Participation in the plan without matching employer contributions is also permitted for any employee of a college district or the state board who desires to utilize the plan as a supplemental retirement savings vehicle to any state-sponsored retirement plan in which the employee participates))~~ Optional participation in tax-deferred annuities other than this qualified plan as offered by individual colleges is permitted consistent with the Internal Revenue Code: *Provided*, That the provisions of WAC 131-16-015, 131-16-050, and 131-16-061 shall not apply in such cases. Optional tax-deferred annuities are provided through a salary reduction agreement between the employee and employer. There is no employer contribution for optional tax-deferred annuities.

(4) An employee who moves from an ineligible to an eligible position for the same appointing authority may become a participant by so electing in writing within six months following such move.

(5) A participant who moves from an eligible position to an ineligible position for the same appointing authority may continue to be a participant by so electing within six months following such move.

(6) Participants shall continue participation regardless of the proportion of full-time duties assigned, except as other-

wise provided in this section, as long as continuously employed by the same appointing authority. For the purpose of this section, spring and fall quarters shall be considered as consecutive periods of employment.

(7) As a condition of employment, all employees who become eligible on and after January 1, 1997, shall participate ~~((pursuant to an irrevocable salary reduction agreement. Such participation shall commence))~~ in this plan upon initial eligibility. Notwithstanding this provision, all eligible new employees who at the time of employment are members of the Washington state teachers retirement system or the Washington public employees retirement system may participate as provided in WAC 131-16-031(1).

AMENDATORY SECTION (Amending Resolution No. 91-20, Order 129, filed 6/14/91, effective 7/15/91)

**WAC 131-16-031 Participation in the plan.** ~~((1))~~ Participation in the TIAA/CREF plan is required of all otherwise eligible new employees: *Provided*, That any such new employee, who at the time of employment is a member of the Washington state teachers retirement system or the Washington public employees retirement system, and whose college or state board employment meets the requirements of an "eligible position" as defined by such plan, may irrevocably elect to retain such membership or, if not vested in that system, retain membership until vesting occurs and then irrevocably elect to participate in the TIAA/CREF plan.

~~((2) College district or state board employees who are members of retirement plans other than the TIAA/CREF plan may participate in the TIAA/CREF plan, without a matching employer contribution, through tax deferred annuity purchase agreements with the employing college district or the state board, to the extent allowed by the applicable United States Internal Revenue Code provisions:))~~

AMENDATORY SECTION (Amending WSR 93-22-008, filed 10/21/93, effective 11/21/93)

**WAC 131-16-045 Transfers to and from plans other than TIAA/CREF.** (1) A participant employed in a Washington state community or technical college or the state board for community and technical colleges may directly transfer into his or her TIAA/CREF account any account balances from other employers' retirement plans: ~~((*Provided*, That such other plans are authorized under Section 403(b) of the Internal Revenue Code, and:))~~ *Provided* ~~((*further*))~~, That such other employers' plans permit transfers out of their plans and such other employers' plans are covered by the same sections of the Internal Revenue Code as this plan.

(2) A participant who leaves the employment of all Washington state community and technical colleges and the state board for community and technical colleges, may choose to transfer his or her existing TIAA/CREF account balances, subject to the rules established by TIAA/CREF for transfers, to any other employer's retirement plan ~~((*authorized under Section 403(b) of the Internal Revenue Code*))~~: *Provided*, That such other employer's plans will accept the transferred balances and such other employers' plans are cov-

ered by the same sections of the Internal Revenue Code as this plan.

**AMENDATORY SECTION** (Amending WSR 97-10-069, filed 5/5/97, effective 7/8/97)

**WAC 131-16-050 Contribution rates established.** (1) ~~(Each participant in the TIAA/CREF plan shall contribute five percent of salary each pay period until attainment of age thirty-five; seven and one-half percent each pay period thereafter through and including age forty-nine; and ten percent of salary each pay period after attaining age fifty. Employees who are participants on December 31, 1996, shall make a one-time, irrevocable election to contribute to the plan on a pretax or after-tax basis, and such election shall not be changed during the remainder of the participant's eligibility at the district or state board. Required contributions made pursuant to an irrevocable salary reduction or deduction agreement are not subject to the elective deferral limits of Section 402 (g)(4) or (8) of the Internal Revenue Code of 1986, as amended. The employing district or state board shall contribute a sum equal to all required employee contributions under this plan. All employee and employer contributions to this plan shall be one hundred percent vested when made. The combined contributions may be allocated among the TIAA and CREF funds as directed by the participant.~~

~~(2)) On and after January 1, 1998, the employing college or state board shall make employee contributions on behalf of participants in lieu of paying an equal amount of each participant's salary, and such contributions shall be treated as employer contributions pursuant to Internal Revenue Code Section 414 (h)(2) in determining the tax treatment under the code. Such contributions shall be made by the employer in lieu of employee contributions.~~

~~(2) Contributions made under subsection (1) of this section shall be paid from the same source of funds as used in paying salary for affected participants. Participants do not have the option to receive the amounts contributed under subsection (1) of this section directly.~~

~~(3) The amounts of the contributions made under subsection (1) of this section shall be limited as follows:~~

~~(a) Five percent of salary each pay period until the participant attains age thirty-five;~~

~~(b) Seven and one-half percent of salary for each pay period from age thirty-five through and including age forty-nine; and~~

~~(c) Ten percent of salary for each pay period after attaining age fifty.~~

~~(4) The employing college or state board shall contribute an additional sum equal to the contributions required by subsection (3) of this section.~~

~~(5) During periods when participants are on leave of absence and are receiving partial compensation, the employer shall continue to make contributions on the same basis as herein provided if the participant agrees to contribute in a like manner.~~

~~((3) In addition to the required salary reduction or deduction agreement in subsection (1) of this section, an eligible employee may enter into a voluntary agreement with the college district or state board to reduce the employee's~~

~~monthly salary by a supplemental amount, within the limits prescribed in the Internal Revenue Code.))~~

**AMENDATORY SECTION** (Amending Resolution No. 91-20, Order 129, filed 6/14/91, effective 7/15/91)

**WAC 131-16-055 Options for self-directed investment of retirement plan contributions and accumulations.** While actively employed, participants may exercise any or a combination of the following options for allocation of current premiums or transfer of accumulated TIAA or CREF fund accumulated balances.

(1) Current premiums may be allocated among the TIAA account and the CREF accounts in any whole percentage proportions.

(2) CREF ~~((fund))~~ account and TIAA real estate account accumulations resulting from previously contributed premiums may be transferred in whole or in part among any of the CREF ~~((subsidiary))~~ and TIAA real estate accounts or to the TIAA traditional annuity account, subject to procedures established by TIAA/CREF.

(3) TIAA ~~((fund))~~ traditional annuity accumulations resulting from previously contributed premiums or from transfers from ~~((CREF))~~ other accounts may be transferred to any CREF accounts on the basis of an irrevocable ten-year schedule of payments, subject to procedures established by TIAA/CREF.

**AMENDATORY SECTION** (Amending WSR 95-13-069, filed 6/20/95, effective 7/21/95)

**WAC 131-16-056 Hardship withdrawals.** (1) In the event of a financial hardship consistent with requirements of subsection (2) of this section and Section 403 (b)(11) of the Internal Revenue Code, a participant may withdraw all or part of the following plan funds:

(a) Pre-1998 employee contributions ~~((and))~~;

(b) Any pre-~~((1988))~~ 1989 earnings on employee contributions~~((s))~~;

(c) Any Section 414 (h) employer pick-up contributions; and

(d) Any contributions transferred to this plan from another employer's plan. Such funds may be withdrawn from the participant's Washington community and technical college system TIAA/CREF retirement account while actively employed ~~((or after termination of employment))~~. Hardship withdrawals may not be larger than the amount necessary to meet the immediate and heavy financial need defined in subsection (2) of this section plus taxes on withdrawn funds and early withdrawal penalties. Employer contributions (other than Section 414 (h) pick-up contributions) and earnings on the employer contributions may not be withdrawn as a hardship withdrawal.

(2) To enable hardship withdrawal of funds, the Internal Revenue Code (Section 1.401(k)-1(d)(2)) requires that the college president or designee shall verify that the participant has certified in writing that:

(a) The participant has an immediate and heavy financial need; and

(b) The participant has no other resources reasonably available to meet the need.

Withdrawals shall be deemed to be for "an immediate and heavy financial need" only if they are for:

- (i) Payments to prevent eviction from or foreclosure on the principal residence of the participant;
- (ii) Payments to prevent the participant's impending bankruptcy; and/or
- (iii) Unreimbursable medical expenses incurred by the participant, spouse, dependent children, and/or dependent parents.

The participant shall be deemed to have "no other resources reasonably available to meet the need" if the participant certifies that he/she cannot meet the need through:

- (A) Reimbursement or compensation by insurance or another source;
- (B) Reasonable liquidation of assets;
- (C) Borrowing from supplemental retirement accounts, life insurance values, or commercial sources; and/or
- (D) Stopping any voluntary employee contributions to tax deferral or savings plans made available by the employer. ~~(Note:)~~ Contributions to the employer-sponsored retirement plan must continue while the employee remains eligible for the plan.

(3) Hardship withdrawals from the community and technical college TIAA/CREF plan are taxable income in the year received. Taxes, early withdrawal penalties, and any other consequences of hardship withdrawals shall be the sole responsibility of the participant. Withdrawals from ~~(the employer-sponsored)~~ this qualified TIAA/CREF plan may not be replaced at a later date.

**AMENDATORY SECTION** (Amending Resolution No. 91-20, Order 129, filed 6/14/91, effective 7/15/91)

**WAC 131-16-061 Supplemental retirement benefits.**

(1) A participant is eligible to receive supplemental retirement benefit payments if at the time of retirement the participant is age sixty-two or over and has at least ten years of full-time service in the TIAA/CREF plan at a Washington public institution of higher education: *Provided*, That the amount of the supplemental retirement benefit, as calculated in accordance with the provisions of this section, is a positive amount.

(2) Subject to the provisions of subdivisions (c), (d), and (e) of this subsection, the annual amount of supplemental retirement benefit payable to a participant upon retirement is the excess, if any, when the value determined in subdivision (b) is subtracted from the value determined in subdivision (a), as follows:

(a) The lesser of fifty percent of the participant's average annual salary or two percent of the average annual salary multiplied by the number of years of full-time service; provided that if the participant did not elect to contribute ten percent of salary beginning July 1, 1974, or if later, after attainment of age fifty, service for such periods shall be calculated at the rate of one and one-half percent instead of two percent.

(b) The combined retirement benefit from the TIAA/CREF annuity and any other Washington state public retirement system as a result of service while employed by a

Washington public higher education institution that the participant would receive in the first month of retirement multiplied by twelve: *Provided*, That the TIAA/CREF benefit shall be calculated on the following assumptions:

(i) After July 1, 1974, fifty percent of the combined contributions were made to the TIAA traditional annuity and fifty percent to the CREF stock ~~((fund))~~ account during each year of full-time service: *Provided*, That benefit calculations related to contributions made prior to July 1, 1974, shall be computed on the basis of actual allocations between TIAA and CREF; and

(ii) The full TIAA/CREF annuity accumulations, including all dividends payable by TIAA and further including the amounts, if any, paid in a single sum under the retirement transition benefit option, were fully settled on a joint and two-thirds survivorship option with a ten-year guarantee, using actual ages of retiree and spouse, but not exceeding a five-year difference; except that for unmarried participants the TIAA accumulations, including dividends, were settled on an installment refund option and the CREF accumulations were settled on a life annuity with ten-year guarantee option, all to be based on TIAA/CREF estimates at the time of retirement; and

(iii) Annuity benefits purchased by premiums paid other than as a participant in a Washington public institution of higher education TIAA/CREF retirement plan shall be excluded.

(iv) For the purposes of this calculation, the assumptions applied to the TIAA/CREF accumulation settlement shall also apply to settlement of the benefit from any other retirement plan.

(c) The amount of supplemental retirement benefit for a participant who has not attained age sixty-five at retirement is the amount calculated in subsection (2) of this section reduced by one-half of one percent for each calendar month remaining until age sixty-five: *Provided*, That the supplemental retirement benefit for an otherwise qualified participant retired for reason of health or permanent disability shall not be so reduced.

(d) Any portion of participant's TIAA and/or CREF annuity accumulation paid to a participant's spouse upon dissolution of a marriage shall be included in any subsequent calculation of supplemental retirement benefits just as if these funds had remained in the participant's TIAA and/or CREF annuity.

(e) The selection of a TIAA/CREF retirement option other than the joint and two-thirds survivorship with ten-year guarantee shall not alter the method of calculating the supplemental retirement benefit; however, if the participant's combined TIAA/CREF retirement benefit and calculated supplemental retirement benefit exceeds fifty percent of the participant's average annual salary, the supplemental retirement benefit shall be reduced so that the total combined benefits do not exceed fifty percent of average annual salary.

(3) The payment of supplemental retirement benefits shall be consistent with the following provisions:

(a) Supplemental retirement benefits shall be paid in equal monthly installments, except that if such monthly installments should be less than ten dollars, such benefit pay-



ments may be paid at longer intervals as determined by the state board.

(b) Supplemental retirement benefit payments will continue for the lifetime of the retired participant; however, prior to retirement, a participant may choose to provide for the continuation of supplemental retirement benefit payments, on an actuarially equivalent reduced basis, to his or her spouse or designated beneficiary after the retiree's death. Notification of such choice shall be filed in writing with the state board and shall be irrevocable after retirement. If such option is chosen, the supplemental retirement benefit payments shall be in the same proportion as any TIAA/CREF survivor annuity option potentially payable to and elected by the participant. If a designation of a survivor's option is not made and the participant dies after attaining age sixty-two but prior to retirement, any supplemental benefit payable shall be based on the two-thirds benefit to survivor option.

(c) Prior to making any supplemental benefit payments, the state board shall obtain a document signed by the participant and spouse, if any, or designated beneficiary acknowledging the supplemental retirement benefit option chosen by the participant.

(4) A retired participant who is reemployed shall continue to be eligible to receive retirement income benefits, except that the supplemental retirement benefit shall not continue during periods of employment for more than forty percent of full-time or seventy hours per month or five months duration in any fiscal year. Retirement contributions shall not be made from the salary for such employment, unless the individual once again becomes eligible to participate under the provisions of WAC 131-16-021.

**WSR 98-09-050**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 98-49—Filed April 15, 1998, 4:55 p.m.]

Date of Adoption: April 15, 1998.

Purpose: Commercial rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-88A-070 and 220-88A-080.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules are necessary to implement the 1998 State/Tribal Puget Sound shrimp harvest management plan and meet allocation requirements under Subproceeding 89-3 in *United States v. Washington*. These rules will allow for a sharing of catch between treaty and non-treaty shrimp fishers. 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 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.

April 15, 1998

Bern Shanks

Director

NEW SECTION

**WAC 220-88A-07000R Emerging commercial fishery—Puget Sound shrimp pot.** Notwithstanding the provisions of WAC 220-88A-070:

(1) Effective immediately it is unlawful to fish for or possess shrimp taken for commercial purposes with shrimp pot gear through April 19, 1998, and it is unlawful to retain shrimp other than spot shrimp through April 30, 1998.

(2) Effective May 1, 1998, until further notice it is unlawful to retain shrimp other than spot shrimp taken for commercial purposes with shrimp pot gear from Marine Fish-Shellfish Management and Catch Reporting Areas 20B, 22A, 23A and 23B.

(2) Effective immediately until further notice it is unlawful to fish for or possess shrimp taken for commercial purposes with shrimp pot gear from the following areas:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20B west of a line from Point Doughty on Orcas Island to the bell buoy at the international boundary due north of Waldron Island.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A west of the following line: beginning at Steep Point On Orcas Island to Neck Point on Shaw Island, then southerly following the west coast of Shaw Island to the southernmost point of Shaw Island, then to the western entrance to Fisherman's Bay on Lopez Island, then southerly and easterly following the west coast of Lopez Island to Point Colville.

**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 220-88A-08000S Emerging commercial fishery - Puget Sound shrimp trawl.** Notwithstanding the provisions of WAC 220-88A-080, effective immediately:

(1) It is unlawful to fish for or possess shrimp taken for commercial purposes with shrimp trawl gear taken from Marine Fish-Shellfish Management and Catch Reporting Area 25B.

(2) It is unlawful to fish for or possess shrimp taken for commercial purposes with shrimp trawl gear taken from Marine Fish-Shellfish Management and Catch Reporting Areas 21A, 20B and 22A through April 30, 1998.

(3) The maximum beam width in Marine Fish Shellfish Management and Catch Reporting Area 20A is 60 feet.

(4) The line defining the open area in Marine Fish-Shellfish Management and Catch Reporting Area 22A after July 10, 1998, is a line projected true east-west through the northern end of Trump Island.

(5) All shrimp harvested must be retained and sold to a licensed Washington wholesale dealer, except that spot shrimp may not be retained and pink shrimp with a count per pound of 160 or greater may not be retained.

**WSR 98-09-055**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 98-51—Filed April 16, 1998, 3:55 p.m., effective April 20, 1998, 12:01 a.m.]

Date of Adoption: April 15, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 220-56-285.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is intended to keep the recreational harvest of sturgeon from Bonneville Reservoir and its tributaries within the established guidelines. 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: April 20, 1998, 12:01 a.m.

April 15, 1998  
 Bern Shanks  
 Director

NEW SECTION

**WAC 220-56-28500Q Sturgeon—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-285, effective 12:01 a.m. April 20, 1998 until further notice, it is unlawful to retain sturgeon from the Columbia River and its tributaries from Bonneville Dam to The Dalles Dam.

**WSR 98-09-090**

**EMERGENCY RULES**

**DEPARTMENT OF TRANSPORTATION**

[Order 173—Filed April 21, 1998, 3:27 p.m.]

Date of Adoption: April 20, 1998.

Purpose: To modify existing rule, WAC 468-38-160 to comply with RCW 46.37.400, and thereby enhance the preservation of public safety.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 468-38-160.

Statutory Authority for Adoption: RCW 46.44.090.

Other Authority: RCW 46.37.400.

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: There currently exists an inconsistency between RCW and WAC regarding a safety appurtenance, specifically rear-view mirrors. Any delay continues the confusion and allows opportunities for reduced safety compliance.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Immediately.

April 21, 1998

Gerald E. Smith

Deputy Secretary, Operations

AMENDATORY SECTION (Amending Order 68, filed 11/22/89, effective 12/23/89)

**WAC 468-38-160 ((Side)) Rear-view mirrors for ((overwide)) overwidth loads. ((Side)) Rear-view mirrors shall be ((se)) mounted ((on vehicles hauling overwide loads**

EMERGENCY

~~that the driver can see the highway for a distance of two hundred feet directly to the rear of the driver's side of the vehicle)) in compliance with RCW 46.37.400. Escort vehicles may be used in lieu of ((this)) the distance requirement.~~

All escort vehicles must be equipped with outside rear-view mirrors on each side of the vehicle ((to provide vision to the rear to ensure that the movement is progressing safely)).

**WSR 98-09-095  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 98-51—Filed April 21, 1998, 4:53 p.m., effective April 27, 1998, 12:01 a.m.]

Date of Adoption: April 21, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000V; and amending WAC 220-56-360.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Test results show that adequate clams are available for harvest in Razor Clam Area 2. Clams from these areas have been certified by the Department of Health as safe for human consumption. 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: April 27, 1998, 12:01 a.m.

April 21, 1998

Bern Shanks

Director

NEW SECTION

**WAC 220-56-36000V Razor clams—Areas and seasons** Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for per-

sonal use from any beach in Razor Clam Areas 1, 2, or 3, except as provided for in this section:

(1) Effective 12:01 am April 27 through 11:59 am April 27, 1998, between 12:01 am and 11:59 am only, razor clam digging is allowed in Razor Clam Area 2.

(2) It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:00 noon April 27, 1998:

WAC 220-56-36000V Razor clams.

**Reviser's note:** The spelling error in the above material occurred in the copy filed by the Department of Fish and Wildlife and appears in the Register pursuant to the requirements of RCW 34.08.040.

EMERGENCY



**WSR 98-09-006**  
**NOTICE OF PUBLIC MEETINGS**  
**CONVENTION AND TRADE**  
**CENTER**

[Memorandum—April 1, 1998]

Pursuant to board action on February 25, 1998, the date of the board's August regular meeting has been changed from Wednesday, August 19, 1998, to Wednesday, August 26, 1998, at 1:30 p.m.

**WSR 98-09-007**  
**NOTICE OF PUBLIC MEETINGS**  
**WORKFORCE TRAINING**  
**AND EDUCATION COORDINATING BOARD**

[Memorandum—April 1, 1998]

At their March 25, 1998, meeting the Washington State Workforce Training and Education Coordinating Board changed their meeting locations for May from Walla Walla to Seattle and July from Tacoma to Walla Walla. The September (Yakima) site has been changed to the Yakima Job Service Center.

Wednesday, May 13, 1998, Work Session  
 Thursday, May 14, 1998, Meeting  
 (Bryman College, Seattle)

Thursday, July 16, 1998, Work Session  
 Friday, July 17, 1998, Meeting  
 (Walla Walla Community College, Walla Walla)

Wednesday, September 2, 1998, Work Session  
 Thursday, September 3, 1998, Meeting  
 (Yakima Job Service Center, Yakima)

Tuesday, October 20, 1998, Work Session  
 Wednesday, October 21, 1998, Meeting  
 (Aerospace Machinists District Lodge #751, Seattle)

Tuesday, December 8, 1998, Work Session  
 Wednesday, December 9, 1998, Meeting  
 (Lacey Community Center, Lacey)

If you have any questions, please call (360) 753-5677.

**WSR 98-09-008**  
**NOTICE OF PUBLIC MEETINGS**  
**TRANSPORTATION COMMISSION**

[Memorandum—March 31, 1998]

Please publish the following changes and additions to the Washington State Transportation Commission's 1998 meeting schedule:

<u>Dates</u>	<u>Previous Location</u>	<u>New Location</u>
October 14 and 15	Transportation Building, Room 1D2, Olympia	Lower Columbia Community College, Student Center Conference Room, Longview
<u>New dates</u>	<u>Locations</u>	
May 5	Anacortes City Council Chambers, Anacortes	
June 2	Grant County Airport Conference Room, Moses Lake	

**WSR 98-09-010**  
**NOTICE OF PUBLIC MEETINGS**  
**EDMONDS COMMUNITY COLLEGE**

[Memorandum—April 2, 1998]

EDMONDS COMMUNITY COLLEGE  
 BOARD OF TRUSTEES  
 NOTICE OF SPECIAL MEETINGS  
 TO MEDIA/OTHER

April 5, 1998*	Accreditation Evaluators Reception with EdCC Board of Trustees and Campus Community: EdCC, Brier Hall, Culinary Connections, 20122 68th Avenue West, Lynnwood, WA, 6:30 p.m.
April 6, 1998*	Accreditation Evaluators Breakfast: EdCC, Snohomish Hall, Room 304A, 20226 [68th] Avenue West, Lynnwood, WA, 8:30 a.m.
April 8, 1998*	Accreditation Evaluators Exit Report: EdCC, Triton Union Building, Room 202, 20200 68th Avenue West, Lynnwood, WA, 1:00 p.m.
April 16, 1998	Edmonds Community College Board of Trustees Special Meeting: EdCC, Snohomish Hall, Room 304A, 20226 68th Avenue West, Lynnwood, WA, 3:00 p.m.
April 24-28, 1998*	American Association of Community Colleges Convention: Fontainebleau Hilton, 4441 Collins Avenue, Miami, FL, 8:00 a.m.
April 30 - May 1, 1998*	Washington Association of Community and Technical Colleges/Trustees Association of Community and Technical Colleges Meetings: Columbia Basin College, 2600 North 20th, Pasco, WA, 8:00 a.m.

\* This event is being scheduled as a special meeting, which is a study session where no action will be taken.

MISC.

**WSR 98-09-011**  
**NOTICE OF PUBLIC MEETINGS**  
**TRANSPORTATION IMPROVEMENT BOARD**

[Memorandum—April 3, 1998]

MEETING NOTICE FOR APRIL 1998  
 TRANSPORTATION IMPROVEMENT BOARD  
 VANCOUVER, WASHINGTON

Sidewalk Committee, 1:00 p.m. - 1:30 p.m., Thursday, April 24, 1998, at the DoubleTree Hotel at the Quay, 100 Columbia Street, Vancouver.

Increase Committee, 1:00 p.m. - 3:30 p.m., Thursday, April 24, 1998, at the DoubleTree Hotel at the Quay.

TIB Program Briefings, 3:30 p.m. - 5:00 p.m., April 24, 1998, at the DoubleTree Hotel at the Quay.

Work Session, 7:00 p.m., April 24, 1998, at the DoubleTree Hotel at the Quay.

Board Meeting, 9:00 a.m., April 25, 1998, at the DoubleTree Hotel at the Quay.

**SPECIAL NEEDS:** For special accommodations or to request an auxiliary aid, please contact the Transportation Improvement Board office at (360) 705-7300 by April 15, 1998.

The next scheduled meeting is May 22, 1998, in Chelan. A notice with further detail of the May meeting will be mailed May 1, 1998.

**WSR 98-09-013**  
**DEPARTMENT OF ECOLOGY**

[Filed April 6, 1998, 4:20 p.m.]

The Spill Prevention, Preparedness, and Response Program of the Department of Ecology has issued an administrative declaratory order under RCW 34.05.240 exempting tank barges owned by Marine Spill Response Corporation from the requirements of chapters 317-10 and 317-21 WAC. You may request a copy of this order from Jeff Fishel by phone (360) 407-7504, or FAX (360) 407-6042, or by e-mail jfis461@ecy.wa.gov.

Jeff Fishel  
 Policy Analyst  
 Prevention Section

**WSR 98-09-025**  
**NOTICE OF PUBLIC MEETINGS**  
**WASHINGTON STATE LIBRARY**

(Library Commission)  
 [Memorandum—April 7, 1998]

The Washington State Library Commission will hold the following public meeting via telephone conference call:

Date: Thursday, April 9, 1998  
 Time: 9:00 a.m. to approximately 9:30 a.m.

For additional information, please do not hesitate to contact Cathy M. Stussy at (360) 753-2914, FAX (360) 586-7575 or INTERNET cstussy@statelib.wa.gov.

**WSR 98-09-026**  
**NOTICE OF PUBLIC MEETINGS**  
**CONSERVATION COMMISSION**

[Memorandum—April 7, 1998]

The Washington State Conservation Commission holds regular bimonthly meetings on the third Thursday of the month at various locations in the state of Washington (WAC 135-04-020).

The following are changes in this schedule for the remainder of 1998.

The Conservation Commission will meet Thursday, September 24, 1998, at a location to be determined in central Washington.

The Conservation Commission's last meeting for 1998 will be December 2-3, 1998, in Ocean Shores, Washington.

For further information, contact Vicki Flynn, Conservation Commission, P.O. Box 47721, Olympia, WA 98504-7721, phone (360) 407-6202.

**WSR 98-09-027**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**

(Red Raspberry Commission)

[Memorandum—April 6, 1998]

The Washington Red Raspberry Commission's board meeting schedule has changed. The meeting originally scheduled for April 22 will instead take place May 13. It will be held at Bellingham's Best Western Heritage Inn beginning at 10:00 a.m.

**WSR 98-09-030**  
**NOTICE OF PUBLIC MEETINGS**  
**CONVENTION AND TRADE CENTER**

[Memorandum—April 8, 1998]

A regular meeting of the Washington State Convention and Trade Center's (WSCTC) board of directors will be held on Wednesday, April 15, 1998, at 1:30 p.m. in Room 310 of the Convention Center, 800 Convention Place, Seattle.

The Washington State Convention and Trade Center Operating Goals, Measurements and Performance Committee will

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meet on Wednesday, April 22 at 10:30 a.m. in the Level 5 (Administrative Offices) Board Room.

The Art Committee will also meet on Wednesday, April 22, 1998, at 12 noon in the Level 5 Board Room.

If you have any questions regarding these meetings, please call 694-5000.

**WSR 98-09-034**  
**NOTICE OF PUBLIC MEETINGS**  
**EDMONDS COMMUNITY COLLEGE**  
[Memorandum—April 8, 1998]

EDMONDS COMMUNITY COLLEGE  
BOARD OF TRUSTEES  
NOTICE OF SPECIAL MEETINGS  
TO MEDIA/OTHER  
Revised

- April 16, 1998 Edmonds Community College Board of Trustees Special Meeting (to address regular agenda items): EdCC, Snohomish Hall, Room 304A, 20226 68th Avenue West, Lynnwood, WA, 3:00 p.m.
- April 24-28, 1998\* American Association of Community Colleges Convention: Fontainebleau Hilton,, 4441 Collins Avenue, Miami, FL, 8:00 a.m.
- April 30-May 1, 1998\* Washington Association of Community and Technical Colleges/Trustees Association of Community and Technical Colleges Meetings: Columbia Basin College, 2600 North 20th, Pasco, WA, 8:00 a.m.

\* This event is being scheduled as a special meeting, which is a study session where no action will be taken.

**WSR 98-09-035**  
**NOTICE OF PUBLIC MEETINGS**  
**WALLA WALLA COMMUNITY COLLEGE**  
[Memorandum—April 8, 1998]

This is to advise you of the following change made to Walla Walla Community College's board of trustees meeting schedule:

- Changed from April 15, 1998, 10:30 a.m., WWCC Clarkston Center.
- Changed to April 16, 1998, 10:30 p.m., WWCC Main Campus.

If you have any questions on this information, please call (509) 527-4274.

**WSR 98-09-037**  
**NOTICE OF PUBLIC MEETINGS**  
**COMMUNITY ECONOMIC**  
**REVITALIZATION BOARD**  
[Memorandum—April 10, 1998]

COMMUNITY ECONOMIC REVITALIZATION BOARD MEETING  
CANCELLATION

Date Affected: May 21, 1998, 9:00 a.m.  
Location Affected: Sea-Tac Airport, Small Conference, SeaTac, Washington

Please call 753-6574 if you have questions.

**WSR 98-09-045**  
**INDETERMINATE SENTENCE**  
**REVIEW BOARD**  
[Filed April 15, 1998, 9:38 a.m.]

Pursuant to our agreement entitled, "Protocol for the Publication of Non-APA Rules of the Indeterminate Sentence Review Board," following are revisions to various sections of Title 381 WAC for publication in the Washington State Register and Washington Administrative Code.

Protocol information is as follows:

	<u>Date of Adoption</u>	<u>Effective Date</u>
WAC 381-30-050	April 13, 1998	April 13, 1998
WAC 381-40-030	April 13, 1998	April 13, 1998
WAC 381-40-040	April 13, 1998	April 13, 1998
WAC 381-40-060	April 13, 1998	April 13, 1998
WAC 381-40-080	April 13, 1998	April 13, 1998
WAC 381-40-140	April 13, 1998	April 13, 1998
WAC 381-60-090	April 13, 1998	April 13, 1998
WAC 381-60-160	April 13, 1998	April 13, 1998
WAC 381-60-180	April 13, 1998	April 13, 1998
WAC 381-70-030	April 13, 1998	April 13, 1998
WAC 381-70-410	April 13, 1998	April 13, 1998
WAC 381-80-050	April 13, 1998	April 13, 1998

I certify pursuant to RCW 34.05.030 that chapters 381-30 through 381-80 WAC are exempt from the Administrative Procedure Act and are being submitted for publication pursuant to the protocol.

Kathryn S. Bail  
Chair

AMENDATORY SECTION (Amending WSR 92-22-008, filed 10/21/92, effective 10/19/92)

**WAC 381-30-050 New minimum term.** New minimum terms of parole violators (pursuant to RCW 9.95.125)

MISC.

will be set by the board within thirty days of admission. Factors considered in setting a new minimum term include:

- (1) The length of time previously incarcerated for the commitment offense from which the individual is on parole.
- (2) The SRA ranges of the original offense from which the individual was on parole.
- (3) The original recommendation of the committing judge and prosecuting attorney.
- (4) Whether or not the parole violation behavior also resulted in an SRA conviction.
- (5) Nature of both the original committing offense and the parole violation behavior.
- (6) The requirements of Personal Restraint of Locklear (118 Wn2d 409) and Personal Restraint of Cashaw (123 Wn2d 138).

**AMENDATORY SECTION** (Amending WSR 91-14-029, filed 6/26/91, effective 7/27/91)

**WAC 381-40-030 Scope.** The provisions of this chapter shall apply to persons convicted of felony offenses in the state of Washington and sentenced to confinement in an adult correctional facility, whose crimes were committed on or before ~~(July 1)~~ June 30, 1984, and are therefore subject to the state's jurisdiction under the indeterminate sentencing system, and those officials charged with processing such convicted persons through the adult correctional system.

**AMENDATORY SECTION** (Amending WSR 92-22-008, filed 10/21/92, effective 10/19/92)

**WAC 381-40-040 Progress review.** The board may elect to review each prisoner's progress during confinement. This review will normally be done at intervals of twenty-four months ~~(, calculated from the prisoner's effective time start)~~.

The department of corrections may request, in writing, the following:

- (1) An advance of the regularly scheduled progress review date;
- (2) That the progress review be conducted at an in-person meeting;
- (3) That a scheduled progress review be changed to either a parole review or a parolability meeting pursuant to RCW 9.95.100.

**AMENDATORY SECTION** (Amending WSR 91-14-029, filed 6/26/91, effective 7/27/91)

**WAC 381-40-060 Parole reviews.** At its discretion, the board may elect to meet with selected prisoners prior to parole to consider the parole plan. The board ~~((normally will))~~ may authorize parole ~~((individuals))~~ after an administrative review only.

**AMENDATORY SECTION** (Amending WSR 91-14-029, filed 6/26/91, effective 7/27/91)

**WAC 381-40-080 Persons present: In-person parole meetings.** The convicted person and such institutional persons as the members conducting the meeting deem appropri-

ate may be present during the parole meeting. A limited number of observers may be present by ~~((prior))~~ approval of the panel members conducting the meeting provided that ~~((the inmate who is the subject of the meeting and))~~ the superintendent of the institution where the meeting is to be conducted ~~((do))~~ does not object. ~~((However, no family members, friends, relatives, or interested parties shall be present. No))~~ Normally, attorneys or advocates will not be permitted at parole meetings. The board will accept and consider any written statements submitted by individuals expressly excluded from in-person meetings. Exclusion of observers other than those expressly excluded herein shall be had only upon a finding of cause made by the board panel on the hearing record except in cases where the institutional superintendent denies access to the hearing room. The board reserves the right to exclude any person(s) from the room during the conduct of any meeting under this chapter upon its own motion or that of any party to the hearing provided that good cause for such exclusion is articulated on the record. In the event of a language communication problem, an interpreter designated by the board shall be present to interpret and assist. The board will accept information from any interested person in writing.

**AMENDATORY SECTION** (Amending WSR 92-22-008, filed 10/21/92, effective 10/19/92)

**WAC 381-40-140 Waiver of mandatory minimum term.** Except when an inmate of an adult correctional institution has been sentenced under a statutorily nonwaivable mandatory, the board may parole an inmate prior to the expiration of a mandatory minimum term, provided such inmate has demonstrated a meritorious effort in rehabilitation and at ~~((last))~~ least two-thirds of the board members concur in such action; provided further, that any inmate who has a mandatory minimum term and is paroled prior to expiration of such term according to this rule and pursuant to RCW 9.95.040, shall not receive a conditional discharge from supervision while on parole until after the mandatory minimum waivable mandatory term has expired. Statutorily nonwaivable mandatory terms include murder first degree, murder second degree, and rape first degree.

The question of waiver of the mandatory minimum term may be referred to the full board by any member of the panel which has been assigned to review the matter. The board will review and consider any recommendation submitted by the superintendent for waiving of a mandatory minimum term:

The resident shall serve a portion of the mandatory term as follows:

- (1) Two years if mandatory term is five years;
- (2) Three years if mandatory term is seven and one-half years;
- (3) Six years if mandatory term is fifteen years;
- (4) Eight years if mandatory term is twenty years.

**AMENDATORY SECTION** (Amending WSR 92-22-008, filed 10/21/92, effective 10/19/92)

**WAC 381-60-090 Conducting a hearing.** All hearings conducted under the provisions of this chapter shall be held



before a panel of at least two members of the indeterminate sentence review board. One member shall be designated, by decision of the panel, as the presiding officer.

A limited number of observers may be present by prior approval of the panel members conducting the hearing, provided that the superintendent of the institution where the hearing is to be conducted, authorizes observers in the facility. However, no family members, friends, relatives, or interested parties shall be present. The board will accept and consider written statements submitted by individuals expressly excluded from hearings.

Exclusion of observers other than those expressly excluded herein shall be had only upon a finding of cause made by the board panel on the hearing record except in cases where the institutional superintendent denies access to the hearing room. The board reserves the right to exclude any person from the room during the conduct of any hearing under this chapter upon its own motion or the motion of any party to the hearing provided that good cause for such exclusion is articulated on the record. The presiding officer may recess the hearing at any time for consultation with the other panel member(s). The panel may question witnesses called by the parties to the hearing (as well as the subject of the hearing whether called as a witness or not) to develop any facts deemed necessary to render a fair and impartial decision. The panel conducting the hearing will ~~((make the final decision))~~ submit its recommendation to the full board for final determination after the hearing as to any change in minimum term. In the event of a language communication problem, an interpreter designated by the board shall be present to interpret and assist. The board will accept information from any interested person in writing.

**AMENDATORY SECTION** (Amending WSR 91-14-029, filed 6/26/91, effective 7/27/91)

**WAC 381-60-160 Disposition.** The board panel shall render a decision of either parolable or not parolable on each case heard under this chapter. All decisions concerning inmates convicted of murder in the first degree will be made by the full board.

Examples of adequate reasons for a finding of nonparolability ~~((are))~~ include, but are not limited to:

- (1) Active refusal to participate in available program or resources designed to assist an offender to reduce the risk of reoffense (e.g., anger management, substance abuse treatment).
- (2) Serious and repetitive disciplinary infractions during incarceration.
- (3) Evidence of an inmate's continuing intent or propensity to engage in illegal activity (e.g., victim harassment, criminal conduct while incarcerated, continued use of illegal substances).
- (4) Statements or declarations by the inmate that he or she intends to re-offend or does not intend to comply with conditions of parole.
- (5) ~~((Compelling))~~ Evidence ~~((within a mental health, psychosocial, or psychological report))~~ that an inmate presents a substantial danger to the community if released.

In parolability hearings, actions may range from no change in the length of sentence to redetermination of the original sentence and imposition of an extension of the term not to exceed the maximum term. Good time credits will not be addressed inasmuch as there are no allegations of rule infractions.

**AMENDATORY SECTION** (Amending WSR 92-22-008, filed 10/21/92, effective 10/19/92)

**WAC 381-60-180 Hearing record preservation.** There will be a ~~((magnetic tape))~~ recording made of all hearings conducted under the provisions of this chapter. Such recordings shall be preserved at the offices of the board in Olympia for not less than six months subsequent to the hearing. Parties requesting partial or total duplication of any hearing must request such recordings pursuant to public disclosure and reimburse the board for the costs involved in such a procedure.

**AMENDATORY SECTION** (Amending WSR 92-22-008, filed 10/21/92, effective 10/19/92)

**WAC 381-70-030 Scope.** (1) The provisions of this chapter shall apply to adult felony offenders granted parole from a Washington prison sentence who are alleged to have violated the terms of their order of parole, those state officials charged with the supervision of such parolees, and parties to parole revocation hearings.

(2) The indeterminate sentence review board will exercise its authority over parolees in a manner that:

- (a) Places a high priority on public safety.
- (b) ~~((Facilities))~~ Facilitates sentencing system transition consistent with the purposes of the Sentencing Reform Act.
- (c) Imposes only those reasonable and enforceable conditions of parole necessary to encourage responsibility, and to assist the offender's lawful reintegration into the community.
- (d) Supports the role and responsibility of the community corrections officer to assist offenders to re-enter the community in a law abiding manner.

(3) The indeterminate sentence review board, as the successor agency to the board of prison terms and paroles, was directed by the legislature to facilitate the transition to the determinate sentencing system and to implement a gradual phase out of the indeterminate system. Violations of parole, including felony behavior being prosecuted under the Sentencing Reform Act, shall be considered.

(4) In making a parole revocation or reinstatement decision, the indeterminate sentence review board will consider the following factors in addition to factors that are case specific:

- (a) Whether or not the parole violation behavior also resulted in an SRA conviction;
- (b) The relationship of the parole violations behavior to the committing offense and the nature of the violation;
- (c) The length of time the parolee has been on parole as well as time previously served on the conviction;
- (d) The perspective and recommendation of the victim;

(e) The recommendation and supporting reasons offered by the community corrections officer, the parolee, and the assistant attorney general;

(f) The level of risk to the community posed by the parolee;

(g) The previous board action during the period of parole;

(h) Purposes ~~((of the SRA))~~ and ranges of the SRA as well as the original judge and prosecutor's recommendations;

(i) The sanction range under the administrative sanction grid.

**AMENDATORY SECTION** (Amending WSR 91-14-029, filed 6/26/91, effective 7/27/91)

**WAC 381-70-410 Hearing record presentation.** There will be a ~~((magnetic tape))~~ recording made of all hearings conducted under the provisions of this chapter. Such recordings shall be preserved for not less than six months subsequent to the hearing at the offices of the board in Olympia. Parties requesting partial or total duplication of any hearing must submit a request in writing along with blank tapes to receive the copy.

**AMENDATORY SECTION** (Amending WSR 92-22-008 [93-23-077], filed 11/17/93, effective 10/18/93)

**WAC 381-80-050 Final discharge from parole supervision.** When a paroled offender has adequately performed the obligations of his or her release for a period of three years from the date of parole to the community, the board shall grant a final discharge restoring civil rights, pursuant to chapter 140, Laws of 1993. If the board determines that a final discharge is compatible with the best interests of society and the welfare of the paroled individual, the board may grant a final discharge prior to three years from the date of parole.

Final discharge restoring civil rights is governed by statute (RCW 9.96.050). If granted earlier than three years from the date of parole, full board ratification is required on all cases where the individual was convicted of a crime which resulted in a loss of life.

The right to possess or control firearms is not restored.

In cases where the maximum term has expired, the board ~~((is empowered to))~~ may grant a final discharge restoring civil rights if it believes such action is in the best interests of society.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 98-09-053**

**INSURANCE COMMISSIONER'S OFFICE**

[Filed April 16, 1998, 11:45 a.m.]

T 98-2

TECHNICAL ASSISTANCE ADVISORY

April 3, 1998

Attention: Health Care Service Contractors and Health Maintenance Organizations.

Re: WAC 284-43-920.

The recently adopted regulation, WAC 284-43-920(1) states that:

"(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."

The reference to an eighteen-month period in subsection (b) represents a change from previous regulations that specified a three-year period. We recognize the potential administrative burden of immediate compliance with this regulation. Therefore, we are extending the due date for compliance with subsection (1)(b) to September 1, 1998.

If you have any questions regarding this advisory, please call Chris Daugherty at (360) 664-2531.

**WSR 98-09-054**

**INSURANCE COMMISSIONER'S OFFICE**

[Filed April 16, 1998, 11:46 a.m.]

**WITHDRAWAL OF BULLETINS AND TECHNICAL ASSISTANCE ADVISORIES**

The Office of the Insurance Commissioner has issued 169 Bulletins and Technical Assistance Advisories in the past 47 years. These Bulletins and Technical Assistance Advisories are designed to clarify state laws and/or state regulations. The Insurance Commissioner has conducted a review of all of the Bulletins and Technical Assistance Advisories. This review was one component of the Commissioner's ongoing regulatory improvement process. The Bulletins and Technical Assistance Advisories were reviewed to ensure clarity, effectiveness, and efficiency. Particular attention was paid to any changes in the underlying laws or rules that have caused the Bulletin or Technical Assistance Advisory to become obsolete, duplicative, or confusing. If a Bulletin or Technical Assistance Advisory no longer achieves intended objectives, it will be revised or withdrawn. At this time, the Commissioner is pleased to take another step in the regulatory improvement process by immediately withdrawing the following 103 Bulletins and Technical Assistance Advisories:

9/11/50	Coupon, Accumulation and Bonus Policies
10/20/50	Washington Insurance Examining Bureau
9/24/54	RCW 48.21.110-Payment of Benefits
3/12/62	Fictitious Groupings - Third Party Liability Insurance

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8/20/62	Interpretation of Application of RCW 48.01.030 and RCW 48.30.260
66-1	Underwriting Practices of Individual Accident and Health Policies
7/21/66	Adoption of the 1965 Commissioner's Disability Table
11/1/67	Credit Life and Credit Accident and Health Insurance
2/3/69	Guidelines to be followed by Companies offering Life Insurance Plans to College Students under a Premium Financing Arrangement
69-3	The Insurance Premium Finance Company Act
6/4/69	New Laws Pertaining to Health Care Service Contractors
6/16/77	Insurers Writing Insurance for Washington School Districts
70-1	Reporting of Total Loss Vehicle Claims
71-1	Document Fee for Filing Forms
71-4	Filing Requirements and Penalties
73-1	Adherence to Filing Requirements
73-2	Issuance of Insurance Agents' Licenses
73-3	Items Relating to Disability Insurance
73-4	Deceptive Advertising and "Nursing-Home" Benefits
73-5	(1) Amended Non-Renewal Law (2) Uninsured Motorists Provisions
73-6	Washington's Automobile Personal Injury Protection Endorsement
73-7	Speed-up in Licensing Procedures
74-1	Reductions in Automobile Insurance Rates During the Energy Crisis
74-2	Property Insurance Filings
74-3	(1) Extension of Credit by Agents & Brokers (2) Brokers, Only, May Charge Fees
74-4	Automobile Insurers to Notify Policyholders and Agents of Availability of Reduced Premiums
74-5	Acceptance of Experience or Schedule Rating for Property Insurance (Fire) Coverage of Business Package Policies
74-6	Improper Adjustment of Claims Under the Comparative Negligence Statute
75-1	Insurance Code Provisions Affecting Title Insurers and their Agents
76-1	Citizen Band Radios as Excluded "Devices for the Reproduction of sound" under the Unscheduled Personal Property Provision of Homeowners Policies
76-4	Private Passenger Automobile Insurance Market

77-1	Unfair and Deceptive Practices with Respect to Credit Insurance
77-2	Individual Disability Insurance Minimum Standards and Disclosure Requirements
77-3	Return of Policy for Refund of Premium
77-4	Right of Debtor to Select Agent, Broker or Insurer
77-5	Individual Disability Insurance Minimum Standards and Disclosure Regulation
77-6	Acceptance of Experience or Schedule Rating for Property Insurance (Fire) Coverages of Business Package Policies
77-7	Disclosure Requirements with Respect to Deposit-Term-Type Insurance
77-8	Interpretation of the Individual Insurance Minimum and Disclosure Requirements
77-9	Replacements Involving Tax Sheltered Annuities
78-2	Minimum Guidelines for Readable Automobile Policies
78-3	Use of Binders in furnishing Property Insurance in Connection with a Loan
78-4	Uniform Health Insurance Claims Forms
78-5	Medicare Supplement Disclosure Forms
78-9	Matters Affecting Health Service Contractors
78-10	Uniform Health Insurance Claim Forms
79-1	Implementation of the President's Anti-Inflation Program
79-2	Discontinuance of Temporary Life Insurance Agents' Licenses
79-5	Change in the Law with Respect to Legal Process Against Surplus Line Insurers
79-6	The Anti-Inflation Program
79-7	Advancement of funds by Title Insurance Companies as Agents as Rebating
80-1	New Laws Affecting Automobile Insurers
80-2	Mount St. Helens Eruption Claims Advice
81-1	Agents' Licensing Violations
81-2	Charging of Fees by Licensees
81-3	Regulations Applicable to Life Insurance and Annuities
81-4	Licensing Requirements for Adjusters
81-5	New Laws Relating to Automobile Insurance
82-1	Benefits for Registered Nurses' Services
82-3	Wood-burning Stoves and Fireplaces in Mobile Homes
82-4	New Standard Nonforfeiture and Valuation Laws
82-5	1982 Premium Tax Changes

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82-8	Cancellation of Previously Approved Tax Exemptions
83-1	Mandatory Coverage for Reconstructive Breast Surgery
83-3	Summary of 1983 Legislation Affecting Health Care Service Contractors and Health Maintenance Organizations
83-5	Mandatory Offering of Certain Coverages
83-6	Over-Insurance of Property
84-1	Multiple Employer Trusts (METs) - an Alert to Agents and Brokers
84-2	Commissioner's Annuity Reserve Valuation Method — Single Premium Deferred Annuities & Related Insurance and Annuity Contracts
84-3	Home Health Care and Hospice Care
84-4	Group Coverage for Mental Health Treatment
84-5	UB-82 Hospital Billing Form
85-1	Legislative Changes Requiring Prompt Attention
85-3	Group Coverage for Mental Health Treatment
85-4	Statement of Opinion on Loss and Loss Adjustment Expense Reserves
85-5	Market Availability Survey
86-1	Cancellation of Agency Appointments
86-3	Changes to the Cancellation and Nonrenewal Laws
86-4	Insurance Premium Tax Rates, Regulatory Operating Fee and Rates and Forms Filing Fees
86-5	Group Coverage for Mental health Treatment
86-7	Long-Term Care Insurance: (1) Prohibited Practices, (2) Forms
86-9	Administrative Alternatives for Implementation of Changes to Coordination of Benefits Rules
87-1	Group Annuity Policies Issued to Financial Institutions
87-2	Insurance Education Regulation
87-3	Legislative Changes Requiring Prompt Attention
88-1	Liability Experience - 1987 Annual Reports WAC 284-07-010, 284-07-014, and 284-07-024
88-2	Washington State Health Insurance Pool
89-5	Notice - Washington Health Insurance Pool Board of Directors
89-6	Notice - Washington Health Insurance Pool Board of Directors
90-1	Licensing Violations and Distinctions Between Agents and Brokers

91-1	Operation Desert Storm — Reduced Automobile Insurance Costs to the Military Personnel Involved Therein
91-3	Licensing Requirements for Licensees who Maintain more than one Place of Business in the State
91-5	Operation Desert Storm — Reinstatement of Health Insurance Coverage for Veterans
91-9	Excess Loss/Stop Loss Coverage Written by Life & Disability Insurers
92-1	Telephone Approvals and/or Disapprovals
5/18/94	Implementation of Portability and Pre-Existing Condition Rules
94-4	Guaranteed Continuity of Coverage -Cancellation or Non-Renewal of Coverage -Ceasing Sale of Contract Form - Rate Increases on Discontinued Forms
94-6	Administrative Alternatives for Implementation of changes to Coordination of Benefits Rules
94-7	Published Policies
95-1	Health Care Provider Selection, Termination, and Dispute Resolution Procedures
95-3	Initiative 607 - Denturism
95-4	Use of Certain "Lifestyle" Rating Factors
95-7	Use of Certain "Lifestyle" Rating Factors

**WSR 98-09-056**

**WASHINGTON STATE LOTTERY**

[Filed April 17, 1998, 9:25 a.m.]

The Washington State Lottery has recently adopted or revised the following policies:

**POL 130.002 - Appointing, Training, and Removing Lottery Security Officials (LSOs) and Lottery Drawing Officials (LDOs) (new)**

This policy puts in writing the system used for selecting and removing LSOs and LDOs, and initiates a formalized training program. The drawing coordinator limits the number of officials appointed to that which allows the officials to remain familiar with his/her duties and responsibilities. Appointments are made by the security chief on a first-come, first-served basis. However, the security chief may deny an appointment if: a) The employee's regular duties would result in a conflict of interest, or b) the employee does not understand the importance of maintaining the dignity of the drawings or is not capable of performing any and all duties in a professional manner consistent with the dignity of the state. Officials may be removed from drawing duty for failing to follow all policies and procedures related to the drawings.

Signed 3/26/98

MISC.

**POL 130.021 - Use of Sporting Events Tickets (new)**

This policy outlines permissible uses for admission tickets provided to the lottery by sports organizations. Lottery staff who attend a sporting event for the purpose of conducting lottery business are given one ticket to that event. (Lottery business is defined as participating in a lottery promotion, inspecting permanent signage, etc.)

Remaining tickets are allocated to corporate accounts, or to regions for use in promotions or good will gestures with retailers. If the tickets are used to develop a better relationship with a current or prospective retailer, DSRs and corporate accounts managers may receive one ticket to attend with the retailer.

Under no condition can the employee's family or friends receive a ticket.

Signed 3/6/98

**POL 320.043 - "You Gotta Love These Games II" Retailer Promotion (new)**

From March 30 through April 26, retailers automatically receive one entry into a weekly drawing for each pack of tickets activated from games 212 (\$2 Batter Up Bucks) and 213 (My!Oh!My!). Each week, five entries from each region (total of 30 entries) will be awarded Mariner merchandise and game tickets.

On April 29, one retailer in each region will receive a grand prize of a trip for two to Anaheim, California to attend a series of three Mariners-Angels games. The package includes round trip air fair from SeaTac Airport, three nights hotel accommodations, and two tickets to each of the June 12-14 games. Prizes were donated by the Mariners.

Signed 3/23/98

To receive a copy of any of these policies, contact Becky Zopolis, Washington State Lottery, P.O. Box 43000, Olympia, WA 98504-3000, phone (360) 586-1051, FAX (360) 586-6586.

April 15, 1998  
Merritt D. Long  
Director

**WSR 98-09-068**

**NOTICE OF PUBLIC MEETINGS**

**PENINSULA COLLEGE**

[Memorandum—April 15, 1998]

The board of trustees of Peninsula College, District 1, Port Angeles, Washington, voted a change in location for the May 12, 1998, meeting. The May 12 meeting will take place in Sequim, Washington, at the Fire District #3, 323 North 5th Street. The September 8, 1998, meeting will be located in Port Townsend at the new college extension site at the Waterman-Katz Building in downtown Port Townsend.

Chapter	Subject/Contact Person	Approximate CR-101 Filing Date	Approximate Adoption Date
WAC 16-54	Animal Importation Requirements	April 1998	September 1998

**WSR 98-09-072**  
**RULES COORDINATOR**  
**EXECUTIVE ETHICS BOARD**

[Filed April 20, 1998, 2:21 p.m.]

Please change the rules coordinator name listed for the Executive Ethics Board from Barbara Cook to Margaret A. Grimaldi, (360) 664-0871. We are requesting this correction be effective immediately.

Patti Hum  
Executive Ethics Board Clerk

**WSR 98-09-107**  
**POLICY STATEMENT**  
**DEPARTMENT OF HEALTH**

[Filed April 22, 1998, 11:15 a.m.]

**NOTICE OF ADOPTION OF POLICY**

Title of Policy: Satellite Management Agency Implementation Policy (B.05).

Effective Date: New February 27, 1998.

Issuing Agency/Division: Department of Health, Environmental Health Programs, Division of Drinking Water.

Description: The policy provides clarification on seven implementation issues that have developed under the implementation of the Satellite Management Agency (SMA) program under RCW 70.116.134 and chapter 246-295 WAC.

1. Conditions on plans and projects for newly created public water systems.
2. Process to revoke, suspend, or modify an SMA approval.
3. Clarification on required level of SMA service for new and existing systems.
4. SMA single and multi-county review process.
5. Directing water applicants in claimed future service areas.
6. Process for a break in contract for a system required to have SMA.
7. Use of list of approved SMAs when directing applicants for SMA services.

Contact: Judy J. Sides, Division of Drinking Water, Headquarters, P.O. Box 47822, Olympia, WA 98504-7822, phone (360) 236-3096, Internet jjw0303@hub.doh.wa.gov.

**WSR 98-09-121**  
**DEPARTMENT OF AGRICULTURE**

[Filed April 22, 1998, 11:35 a.m.]

Addendum - Semi Annual Rule Agenda,  
Filed January 21, 1998,  
WSR 98-03-087

Washington State Department of Agriculture

MISC.

WAC 16-84	RB-51 Vaccine -Brucellosis in Cattle	March 1998	February 1999
WAC 16-89	Regulating Scrapie in goats and sheep	March 1998	February 1999
WAC 16-101	Revised Pasteurized Milk Ordinance	May 1998	September 1998
WAC 16-561	Marketing Standards for Red Raspberries	June 1998	November 1998
WAC 16-600	Use of State Honey Seal	March 1998	June 1998
NEW	Turf Grass Seed Marketing Order	June 1998	November 1998

For more information contact: Dannie McQueen, Rules Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1809.

William E. Brookreson  
Assistant Director

MISC.

**WSR 98-07-019**  
**EXPEDITED REPEAL**  
**WASHINGTON STATE PATROL**  
 [Filed March 10, 1998, 8:25 a.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 212-17-190 Sales dates, 212-17-195 Sales locations, 212-17-200 Safety inspection, 212-17-205 No smoking signs, 212-17-210 Smoking and discharge of fireworks, and 212-17-215 Disposition of unsold stock.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Deputy State Fire Marshal Lyall Smith, P.O. Box 42600, Olympia, WA 98504-2600, phone (360) 753-0470, FAX (360) 753-0395.

Reason the Expedited Repeal of the Rule is Appropriate: The changes made to chapter 212-17 WAC, as filed on January 23, 1998, for inclusion in WSR 98-04-007 supersede these WACs, making them redundant.

Old WAC 212-17-190 Sales dates; new WAC 212-17-21505 General provisions.

Old WAC 212-17-195 Sales locations; new WAC 212-17-21515 Operation of retail fireworks stands.

Old WAC 212-17-200 Safety inspection; new WAC 212-17-21515 Operation of retail fireworks stands.

Old WAC 212-17-205 No smoking signs; new WAC 212-17-21511 Area around the retail fireworks stand.

Old WAC 212-17-210 Smoking and discharge of fireworks; new WAC 212-17-21511 Area around the retail fireworks stand.

Old WAC 212-17-215 Disposition of unsold stock; new WAC 212-17-21517 Temporary fireworks storage associated with the retail fireworks stand operation.

March 10, 1998  
 Annette M. Sandberg  
 Chief

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- |                |  |
|----------------|--|
| WAC 212-17-190 | Retailers of fireworks—Sales dates.                        |
| WAC 212-17-195 | Retailers of fireworks—Sales locations.                    |
| WAC 212-17-200 | Retailers of fireworks—Safety inspection.                  |
| WAC 212-17-205 | Retailers of fireworks—No smoking signs.                   |
| WAC 212-17-210 | Retailers of fireworks—Smoking and discharge of fireworks. |
| WAC 212-17-215 | Retailers of fireworks—Disposition of unsold stock.        |

**WSR 98-07-020**  
**EXPEDITED REPEAL**  
**DEPARTMENT OF LICENSING**  
 [Filed March 10, 1998, 8:58 a.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 308-170-040 and 308-170-050.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Statute on which the rule was based has been repealed and has not been replaced by another statute providing statutory authority for the rule.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Walt Fahrner, Rules Coordinator, 1125 Washington Street S.E., P.O. Box 9020, Olympia, WA 98507-9020.

Reason the Expedited Repeal of the Rule is Appropriate: WAC 308-170-040 and 308-170-050, statute on which the rule was based has been repealed.

March 10, 1998  
 Walt Fahrner  
 Rules Coordinator

**WSR 98-07-023**  
**EXPEDITED REPEAL**  
**DEPARTMENT OF**  
**EMPLOYMENT SECURITY**  
 [Filed March 10, 1998, 1:50 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 192-18-010 to 192-18-070.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Washington State Employment Security Department, Barney Hilliard, Contract and Rules Office Administrator, 605 Woodland Square Loop S.E., P.O. Box 9046, Olympia, WA 98507-9046.

Reason the Expedited Repeal of the Rule is Appropriate: RCW 50.12.010 gives the commissioner of the Employment Security Department discretionary power and authority to adopt, amend, or rescind such rules and regulations but does not issue a mandate.

The department is currently incorporating the areas that the sections referenced in the WAC into an employee conduct policy that also addresses the 1994 ethics law.

WAC 192-18-010 to 192-18-070 is duplicative of the RCW and the Employment Security Department's employee conduct policy.

February 18, 1998  
 Carver Gayton  
 Commissioner

EXPEDITED REPEAL

**WSR 98-07-024****EXPEDITED REPEAL****EMPLOYMENT SECURITY DEPARTMENT**

[Filed March 10, 1998, 1:52 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 192-20-010 Due dates for submission of reports and contributions—Interest on delinquent contributions.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Employment Security Department, Rules Coordinator, Barney Hilliard, Mailstop 6000, P.O. Box 9046, Olympia, WA 98507-9046.

Reason the Expedited Repeal of the Rule is Appropriate: The Employment Security Department no longer collects reports or funds from political subdivisions of the state of Washington for old age and survivors insurance (OASI) contributions. These municipalities make these payments and submit these reports directly to the Social Security Administration.

March 2, 1998  
Carver Gayton  
Commissioner

**WSR 98-07-053****EXPEDITED REPEAL****ATTORNEY GENERAL'S OFFICE**

[Filed March 13, 1998, 11:34 a.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 44-01-140.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Statute on which the rule was based has been repealed and has not been replaced by another statute providing statutory authority for the rule; and other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Jeffrey T. Even, Assistant Attorney General, P.O. Box 40100, Olympia, WA 98504-0100.

Reason the Expedited Repeal of the Rule is Appropriate: In 1993, statutory amendments transferred the function of registering charitable trusts to the Office of the Secretary of State. All other rules in this chapter were repealed at that time. Rules governing trust registration may now be found in chapter 434-120 WAC, issued by the Secretary of State. This section is no longer needed for that reason.

March 12, 1998  
Jeffrey T. Even  
Assistant Attorney General

**WSR 98-07-087****EXPEDITED REPEAL****DEPARTMENT OF HEALTH**

[Filed March 17, 1998, 4:36 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 246-815-060 Dismissal from examinations, 246-815-070 Examination results, 246-815-080 Written examination review procedures, and 246-815-090 Practical examination review procedures.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Department of Health, Dental Hygiene Program, Vicki Brown, Program Manager, P.O. Box 47867, Olympia, WA 98504-7867, FAX (360) 664-9077.

Reason the Expedited Repeal of the Rule is Appropriate: The rules are no longer necessary because of changed circumstances. The Dental Hygiene Examining Committee no longer administers a state written or practical examination. Applicants for licensure must now pass the Western Regional Examining Board dental hygiene examinations.

March 17, 1998  
Bruce Miyahara  
Secretary

**WSR 98-07-088****EXPEDITED REPEAL****DEPARTMENT OF HEALTH**

(Board of Pharmacy)

[Filed March 17, 1998, 4:37 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 246-883-050 Theophylline prescription restrictions.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Lisa Salmi, Washington State Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504-7863, phone (360) 586-3018, FAX (360) 586-4359.

Reason the Expedited Repeal of the Rule is Appropriate: This rule is not consistent with federal regulations. This rule was originally adopted by the Washington State Board of Pharmacy to minimize the risk of toxicity associated with the use of theophylline-containing products. The rule restricted products with theophylline as the only active ingredient to prescription only status. The rule allowed theophylline combination products to be sold without a prescription. The Food and Drug Administration has since determined that to achieve optimal therapeutic dosage and to minimize the risk



of toxicity associated with the use of theophylline, a practitioner must monitor the use of this drug and the patient's response to the drug. The Food and Drug Administration has restricted the use of all theophylline-containing products to prescription only status. The Board of Pharmacy rule is not consistent with federal regulations and does not protect public health and safety.

March 13, 1998

Donald H. Williams

Executive Director

**WSR 98-07-090**

**EXPEDITED REPEAL**

**LOTTERY COMMISSION**

[Filed March 18, 1998, 8:37 a.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 315-11A-137 Instant Game Number 137 ("Walla Walla Walla"), 315-11A-138 Instant Game Number 138 ("\$2 Bank Roll"), 315-11A-139 Instant Game Number 139 ("\$100 Grands"), 315-11A-140 Instant Game Number 140 ("Joker's Wild"), 315-11A-141 Instant Game Number 141 ("Go Bananas"), 315-11A-142 Instant Game Number 142 ("Lucky Queen"), 315-11A-143 Instant Game Number 143 ("High Stakes"), 315-11A-144 Instant Game Number 144 ("Instant Pay"), 315-11A-145 Instant Game Number 145 ("Monte Carlo"), 315-11A-146 Instant Game Number 146 ("Holiday Bonus"), 315-11A-147 Instant Game Number 147 ("Winning Pairs"), 315-11A-148 Instant Game Number 148 ("\$2 Bonus Bingo"), 315-11A-149 Instant Game Number 149 ("Lucky 7s"), 315-11A-150 Instant Game Number 150 ("Cold Cash"), 315-11A-151 Instant Game Number 151 ("Washington Green"), 315-11A-152 Instant Game Number 152 ("\$2 High Roller"), 315-11A-153 Instant Game Number 153 ("Bingo"), 315-11A-154 Instant Game Number 154 ("Gold Rush"), 315-11A-155 Instant Game Number 155 ("Loose Change"), 315-11A-156 Instant Game Number 156 ("\$2 Win For Life"), 315-11A-157 Instant Game Number 157 ("Summer Gold"), 315-11A-158 Instant Game Number 158 ("Five Card Stud"), 315-11A-159 Instant Game Number 159 ("Fat Cat"), 315-11A-160 Instant Game Number 160 ("My! Oh! My!"), 315-11A-161 Instant Game Number 161 ("\$2 Baseball Scoreboard"), 315-11A-162 Instant Game Number 162 ("\$2 Double Up"), 315-11A-163 Instant Game Number 163 ("Apple Bucks"), and 315-11A-164 Instant Game Number 164 ("Blackjack").

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Mary Jane Ferguson, Rules Coordinator, Washington State Lottery, P.O. Box 43025, Olympia, WA 98504-3025.

Reason the Expedited Repeal of the Rule is Appropriate: The games governed by these sections have been closed and the time period for redeeming prizes has expired.

March 12, 1998

Mary Jane Ferguson

Rules Coordinator

**WSR 98-07-093**

**EXPEDITED REPEAL**

**DEPARTMENT OF**

**LABOR AND INDUSTRIES**

[Filed March 18, 1998, 10:03 a.m.]

The Following Sections are Proposed for Expedited Repeal: Chapter 296-124 WAC, Rules and regulations for the administration of the Theatrical Enterprise Act; WAC 296-124-010 Definitions, 296-124-020 Bond or cash deposit, 296-124-021 Statement of intent to hire, 296-124-022 Filing claims for wages against bond or cash deposit, 296-124-040 Multiple events, and 296-124-050 Failure to post bond.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Greg Mowat, Program Manager, Employment Standards, Department of Labor and Industries, P.O. Box 44510, Olympia, WA 98504-4510.

Reason the Expedited Repeal of the Rule is Appropriate: When chapter 49.38 RCW, Theatrical enterprises, was enacted in 1984, there was a need for this legislation and corresponding department rules. Since that time, the reasons for the rule have evaporated and it is no longer needed. The department has never had occasion to enforce chapter 296-124 WAC and believes it should be repealed. The department has contacted major theatrical industry stakeholders and has found they also believe the rules are unnecessary. If the rules are neither needed nor used, they should be repealed. Since there is no apparent opposition to repeal, the department should use the expedited repeal process to remove the chapter as quickly as possible.

March 16, 1998

Gary Moore

Director

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 296-124-010	Definitions.
WAC 296-124-020	Bond or cash deposit.
WAC 296-124-021	Statement of intent to hire.
WAC 296-124-022	Filing claim for wages against bond or cash deposit.
WAC 296-124-040	Multiple events.
WAC 296-124-050	Failure to post bond.

**WSR 98-07-108****EXPEDITED REPEAL****DEPARTMENT OF AGRICULTURE**

[Filed March 18, 1998, 11:31 a.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 16-333-200 Definitions, 16-333-205 Approval of stock, 16-333-210 Seed stock eligible for certification, 16-333-215 Planting requirements, 16-333-220 Conditions under which certification may be refused, 16-333-225 Responsibilities of the grower, 16-333-230 Storage requirements for certified seed, 16-333-235 Movement of seed out-of-state—Permit requirement, 16-333-240 Fees, and 16-333-245 Certifying agency issuance of certificate.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Mary A. Martin 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.

Reason the Expedited Repeal of the Rule is Appropriate: The current rule contains two entirely different subjects that should be separated. The department will establish new rules for garlic certification under the expedited adoption process.

March 18, 1998

Mary A. Martin Toohey  
Assistant Director

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 16-333-200	Definitions.
WAC 16-333-205	Approval of stock.
WAC 16-333-210	Seed stock eligible for certification.
WAC 16-333-215	Planting requirements.
WAC 16-333-220	Conditions under which certification may be refused.
WAC 16-333-225	Responsibilities of the grower.
WAC 16-333-230	Storage requirements for certified seed.
WAC 16-333-235	Movement of seed out-of-state—Permit requirement.
WAC 16-333-240	Fees.
WAC 16-333-245	Certifying agency issuance of certificate.

**WSR 98-08-018****EXPEDITED REPEAL****DEPARTMENT OF REVENUE**

[Filed March 19, 1998, 11:56 a.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 458-12-245 Listing of property—Intangibles and 458-16-050 Senior citizen and disabled persons exemption—Amount of exemption.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Kim M. Qually, Counsel, Legislation and Policy, Department of Revenue, Box 47467, Olympia, WA 98504-7467, FAX (360) 664-0693, e-mail kimq@dor.wa.gov.

Reason the Expedited Repeal of the Rule is Appropriate: WAC 458-12-245, the underlying statute implemented by this rule (RCW 84.36.070) was extensively changed by the legislature in 1997. This rule no longer accurately reflects the contents of the statute and is no longer needed in light of the detailed statutory changes regarding locally assessed intangible personal property.

WAC 458-16-050, this rule is out-of-date because the legislature has amended the underlying statute (RCW 84.36.381) several times since the rule was adopted in 1987. The rule merely restates the income thresholds used to determine the amount of property tax exemption a senior citizen or a person retired from gainful employment by reason of physical disability is entitled to receive. This rule is unnecessary because it only provides information contained in the statute.

March 18, 1998

Claire Hesselholt  
Rules Manager

**WSR 98-08-019****EXPEDITED REPEAL****DEPARTMENT OF AGRICULTURE**

[Filed March 19, 1998, 2:59 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 16-600-020 Use of Washington state honey seal.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Verne E. Hedlund, 1111 Washington Street, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1860, FAX (360) 902-2087, TDD (360) 902-1996.

Reason the Expedited Repeal of the Rule is Appropriate: The rule implementing the Washington state honey seal pro-

gram went into effect on July 18, 1950. We have been unable to find anyone in the department or industry that knows for sure whether or not this program was ever implemented. The files of the department have no reference to a honey seal program, nor do we have any honey seals or applicants for seals. According to hearsay, the program operated for a few years in the early 1950s and then was discontinued due to lack of interest.

March 16, 1998  
 Candace A. Jacobs, DVM  
 Assistant Director

**WSR 98-08-020**  
**EXPEDITED REPEAL**  
**DEPARTMENT OF AGRICULTURE**  
 [Filed March 19, 1998, 3:00 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 16-129-010, 16-129-020, 16-129-025, and 16-129-030.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Verne E. Hedlund, 1111 Washington Street, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1860, FAX (360) 902-2087, TDD (360) 902-1996.

Reason the Expedited Repeal of the Rule is Appropriate: The food labeling requirements of the United States Food and Drug Administration (FDA) found in Title 21 CFR are adopted under RCW 69.04.398 and chapter 16-168 WAC, Intrastate commerce in foods. These regulations cover food labeling requirements including labeling requirements for imitation foods and standards of identity for dairy products. These may be found in 21 CFR parts 101, 102, 130, 131, 133, and 135. FDA also enforces the Federal Filled Milk Act.

March 18, 1998  
 Candace A. Jacobs, DVM  
 Assistant Director

**WSR 98-08-060**  
**EXPEDITED REPEAL**  
**DEPARTMENT OF ECOLOGY**  
 [Order 98-06—Filed March 30, 1998, 3:01 p.m.]

The Following Sections are Proposed for Expedited Repeal: Chapter 372-32 WAC.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Jerry Thielen, Rules Coordinator, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

Reason the Expedited Repeal of the Rule is Appropriate: SSB 5606, chapter 342, Laws of 1995, required the Department of Ecology and the Department of Health to jointly review and, if required, propose amendments to chapter 372-32 WAC to resolve conflicts between the development of reclaimed water projects in the Puget Sound region and chapter 372-32 WAC. Such a review was done and the recommendation to the legislature was to rescind the regulation.

March 26, 1998  
 Megan White, P.E.  
 Program Manager

**WSR 98-08-061**  
**EXPEDITED REPEAL**  
**DEPARTMENT OF ECOLOGY**  
 [Order 98-05—Filed March 30, 1998, 3:04 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 173-160-020 How do I apply for a variance?.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances; and other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Jerry Thielen, Rules Coordinator, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

Reason the Expedited Repeal of the Rule is Appropriate: WAC 173-160-020 is being repealed because it was relocated in its entirety to WAC 173-160-106 and 173-160-406. WAC 173-160-020 was not repealed during the normal revisions to chapter 173-160 WAC due to an administrative oversight.

March 27, 1998  
 Keith E. Phillips  
 Program Manager

**WSR 98-08-073**  
**EXPEDITED REPEAL**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Management Services Administration)  
 [Filed March 31, 1998, 3:41 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 388-15-216 Chore personal care services—Grandfathered clients.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Statute on which the rule was based has been repealed and has not been replaced by another statute providing statutory authority for the rule.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Paige Wall, Acting Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, phone (360) 902-7540, FAX (360) 902-8292, e-mail pwall@dshs.wa.gov.

Reason the Expedited Repeal of the Rule is Appropriate: The statute on which WAC 388-15-216 is based, RCW 74.08.541, was repealed in 1995 with the passage of ESHB 1908 and has not been replaced by another statute.

March 31, 1998

Edith M. Rice, Chief  
Office of Legal Affairs

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-15-216	Chore personal care services—Grandfathered clients.
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### **WSR 98-08-080**

#### **EXPEDITED REPEAL**

#### **DEPARTMENT OF AGRICULTURE**

[Filed March 31, 1998, 4:32 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 16-46-010 Commercial semen production.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Dannie McQueen, Rules Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, (360) 902-1809.

Reason the Expedited Repeal of the Rule is Appropriate: Other sections in the chapter were repealed in 1997. Due to an oversight, this section was not included at the same time. This section is no longer applicable. Domestic and imported animal semen is currently managed under industry quality control standards.

March 31, 1998

William E. Brookreson  
Assistant Director

### **WSR 98-08-100** **EXPEDITED REPEAL** **DEPARTMENT OF** **LABOR AND INDUSTRIES**

[Filed April 1, 1998, 10:58 a.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 296-30-050 Distribution of third party recoveries.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Brian Huseby, CVC Rules Coordinator, P.O. Box 44520, Olympia, WA 98504-4520.

Reason the Expedited Repeal of the Rule is Appropriate: The rule is obsolete. It only pertains to civil recoveries that were made prior to July 1, 1993. No recoveries that were made prior to that date are any longer received in the department.

March 25, 1998

Gary Moore  
Director

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-30-050	Distribution of third party recoveries.
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### **WSR 98-08-101**

#### **EXPEDITED REPEAL**

#### **DEPARTMENT OF** **LABOR AND INDUSTRIES**

[Filed April 1, 1998, 10:59 a.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 296-20-03004 Chemonucleolysis.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Amy Levinson, Office of the Medical Director, Department of Labor and Industries, P.O. Box 44321, Olympia, WA 98504-4321, 902-6324.

Reason the Expedited Repeal of the Rule is Appropriate: Medical research shows that this procedure is rarely used today, due to the risks of anaphylactic shock, allergic reaction to the treatment and low success rates. Current standards of care favor more efficacious treatments now available that have higher success rates and fewer side effects. The Department of Labor and Industries Insurance Services Division

already provides coverage of more standard treatments. Department policy will allow chemonucleolysis under limited circumstances.

March 26, 1998  
 Gary Moore  
 Director

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 296-20-03004 Chemonucleolysis.

**WSR 98-08-102**  
**EXPEDITED REPEAL**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed April 1, 1998, 11:00 a.m.]

The Following Sections are Proposed for Expedited Repeal: Practice and Procedure, WAC 296-08-001, 296-08-020, 296-08-030, 296-08-040, 296-08-050, 296-08-060, 296-08-070, 296-08-080, 296-08-090, 296-08-100, 296-08-110, 296-08-120, 296-08-130, 296-08-140, 296-08-150, 296-08-160, 296-08-170, 296-08-180, 296-08-190, 296-08-200, 296-08-210, 296-08-220, 296-08-370, 296-08-380, 296-08-390, 296-08-400, 296-08-410, 296-08-420, 296-08-430, 296-08-440, 296-08-450, 296-08-460, 296-08-470, 296-08-480, 296-08-490, 296-08-500, 296-08-510, 296-08-520, 296-08-530, 296-08-540, 296-08-550, 296-08-560, 296-08-570, 296-08-580, and 296-08-590.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: John Stanislay, Department of Labor and Industries, P.O. Box 44172, Olympia, WA 98504-4172, phone (360) 902-4550, FAX (360) 902-4650.

Reason the Expedited Repeal of the Rule is Appropriate: Chapter 296-08 WAC was adopted in 1960 and has not been amended except for WAC 296-08-025 Attorney fees. These rules have not been changed for thirty eight years. The majority of these rules are being repealed because they have either been replaced [by] the Model rules of procedure, chapter 10-08 WAC which supplement the Administrative Procedure Act provisions or by or [the] Practice and procedure—BIIA, chapter 263-12 WAC. In the spirit of regulatory reform the department will be repealing forty five outdated rule sections and eliminating six pages from the Washington Administrative Code.

March 31, 1998  
 Gary Moore  
 Director

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 296-08-001 Effective date and validity.
- WAC 296-08-020 Appearance and practice before agency—Appearance in certain proceedings may be limited to attorneys.
- WAC 296-08-030 Appearance and practice before agency—Solicitation of business unethical.
- WAC 296-08-040 Appearance and practice before agency—Standards of ethical conduct.
- WAC 296-08-050 Appearance and practice before agency—Appearance by former employee of agency or former member of attorney general's staff.
- WAC 296-08-060 Appearance and practice before agency—Former employee as expert witness.
- WAC 296-08-070 Computation of time.
- WAC 296-08-080 Notice and opportunity for hearing in contested cases.
- WAC 296-08-090 Service of process—By whom served.
- WAC 296-08-100 Service of process—Upon whom served.
- WAC 296-08-110 Service of process—Service upon parties.
- WAC 296-08-120 Service of process—Methods of service.
- WAC 296-08-130 Service of process—When service complete.
- WAC 296-08-140 Service of process—Filing with agency.
- WAC 296-08-150 Subpoenas—Where provided by law—Form.
- WAC 296-08-160 Subpoenas—Issuance to parties.
- WAC 296-08-170 Subpoenas—Service.
- WAC 296-08-180 Subpoenas—Fees.
- WAC 296-08-190 Subpoenas—Proof of service.
- WAC 296-08-200 Subpoenas—Quashing.
- WAC 296-08-210 Subpoenas—Enforcement.
- WAC 296-08-220 Subpoenas—Geographical scope.
- WAC 296-08-370 Official notice—Matters of law.
- WAC 296-08-380 Official notice—Material facts.
- WAC 296-08-390 Presumptions.
- WAC 296-08-400 Stipulations and admissions of record.
- WAC 296-08-410 Form and content of decisions in contested cases.

WAC 296-08-420	Definition of issues before hearing.
WAC 296-08-430	Prehearing conference rule—Authorized.
WAC 296-08-440	Prehearing conference rule—Record of conference action.
WAC 296-08-450	Submission of documentary evidence in advance.
WAC 296-08-460	Excerpts from documentary evidence.
WAC 296-08-470	Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses.
WAC 296-08-480	Expert or opinion testimony and testimony based on economic and statistical data—Written sworn statements.
WAC 296-08-490	Expert or opinion testimony and testimony based on economic and statistical data—Supporting data.
WAC 296-08-500	Expert or opinion testimony and testimony based on economic and statistical data—Effect of noncompliance with WAC 296-08-470 or 296-08-480.
WAC 296-08-510	Continuances.
WAC 296-08-520	Rules of evidence—Admissibility criteria.
WAC 296-08-530	Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections.
WAC 296-08-540	Petitions for rule making, amendment or repeal.
WAC 296-08-550	Petitions for rule making, amendment or repeal—Requirements.
WAC 296-08-560	Petitions for rule making, amendment or repeal—Agency must consider.
WAC 296-08-570	Petitions for rule making, amendment or repeal—Notice of disposition.
WAC 296-08-580	Declaratory rulings.
WAC 296-08-590	Forms.

**WSR 98-08-103**  
**EXPEDITED REPEAL**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed April 1, 1998, 11:01 a.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 296-126-098 Wearing apparel.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Greg Mowat, Program Manager, Employment Standards, Department of Labor and Industries, P.O. Box 44510, Olympia, WA 98504-4510.

Reason the Expedited Repeal of the Rule is Appropriate: The 1998 legislature passed, and the governor signed into law, SB 6536 which conflicts with WAC 296-126-098. Since the statute supersedes the rule, the rule should be repealed. A rule in conflict with statute is an excellent candidate for the expedited repeal process.

March 26, 1998

Gary Moore  
Director

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 296-126-098      Wearing apparel.

**WSR 98-08-111**

**WITHDRAWAL OF EXPEDITED REPEAL**  
**DEPARTMENT OF HEALTH**

[Filed April 1, 1998, 11:50 a.m.]

Please withdraw WSR 97-20-158 which was filed October 1, 1997. The agency is withdrawing this CR-101XR due to the receipt of public comment objecting to expedited repeal of WAC 246-812-130 Denturist licensure—training course approval.

Bruce Miyahara  
Secretary

**WSR 98-08-112**

**EXPEDITED REPEAL**  
**DEPARTMENT OF HEALTH**

[Filed April 1, 1998, 11:51 a.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 246-828-005 Fitting and dispensing activities requiring license defined.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances; and other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Department of Health,  
Hearing and Speech Program, P.O. Box 47869, Olympia,  
WA 98504-7869, (360) 586-8577.

Reason the Expedited Repeal of the Rule is Appropriate:  
1996 legislative amendments to chapter 18.35 RCW define  
hearing instrument fitting and dispensing activities and assistive  
listening devices. The rule repeats RCW 18.35.010 (1)  
and (9).

March 24, 1998  
Delores E. Spice  
Executive Director

**WSR 98-08-113**  
**EXPEDITED REPEAL**  
**DEPARTMENT OF HEALTH**

[Filed April 1, 1998, 11:52 a.m.]

The Following Sections are Proposed for Expedited  
Repeal: WAC 246-828-015 Temporary credentialing stan-  
dards.

Rules Proposed for Expedited Repeal Meet the Follow-  
ing Criteria: Rule is no longer necessary because of changed  
circumstances.

Any person who objects to the repeal of the rule must file  
a written objection to the repeal within thirty days after pub-  
lication of this preproposal statement of inquiry.

Address Your Objection to: Department of Health,  
Hearing and Speech Program, P.O. Box 47869, Olympia,  
WA 98504-7869, (360) 586-8577.

Reason the Expedited Repeal of the Rule is Appropriate:  
The rule defines temporary credentialing standards for appli-  
cants who were engaged in the professions of speech-lan-  
guage pathology and audiology on or before June 6, 1996,  
and who applied for certification before July 1, 1997. The  
rule is no longer necessary as the statutory authority to issue  
certificates under this criteria ended June 30, 1997.

March 24, 1998  
Delores E. Spice  
Executive Director





**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.

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16-08-151	AMD	98-09-085	16-325-005	NEW	98-09-071	16-400-100	AMD-P	98-07-032
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16-46-010	REP-XR	98-08-080	16-325-015	NEW	98-09-071	16-471	PREP	98-07-107
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16-89	PREP	98-08-023	16-325-020	NEW	98-09-071	16-532-0402	REP-P	98-02-073
16-102	PREP	98-04-075	16-325-025	NEW-XA	98-05-106	16-532-0404	REP-P	98-02-073
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16-167-030	AMD	98-09-048	16-333-240	REP-XR	98-07-108	16-573-040	NEW	98-04-093
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16-167-050	AMD-XA	98-04-076	16-334-020	NEW-XA	98-07-109	16-573-060	NEW	98-04-093
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16-168-070	AMD	98-03-089	16-354-005	AMD	98-09-049	16-752	PREP	98-04-077
16-168-075	NEW	98-03-089	16-354-010	AMD-P	98-06-082	16-752-610	AMD-P	98-08-109
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16-168-090	AMD	98-03-089	16-354-020	AMD-P	98-06-082	25-18-020	REP	98-05-027
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51-42-1105	NEW	98-02-056	51-46-0521	NEW	98-02-055	131-12-020	AMD-P	98-06-069
51-42-1106	NEW	98-02-056	51-46-0522	NEW	98-02-055	131-12-030	AMD-P	98-06-069
51-42-1107	NEW	98-02-056	51-46-0523	NEW	98-02-055	131-12-040	AMD-P	98-06-069
51-42-1108	NEW	98-02-056	51-46-0524	NEW	98-02-055	131-12-041	AMD-P	98-06-069
51-42-1311	NEW	98-02-056	51-46-0525	NEW	98-02-055	131-16	AMD-C	98-08-028
51-42-1312	NEW	98-02-056	51-46-0600	NEW	98-02-055	131-16-010	AMD-P	98-06-075
51-42-1401	NEW	98-02-056	51-46-0603	NEW	98-02-055	131-16-010	AMD-E	98-09-044
51-44-001	NEW	98-02-053	51-46-0604	NEW	98-02-055	131-16-011	AMD-P	98-06-075
51-44-002	NEW	98-02-053	51-46-0608	NEW	98-02-055	131-16-011	AMD-E	98-09-044
51-44-003	NEW	98-02-053	51-46-0609	NEW	98-02-055	131-16-015	REP-P	98-06-075
51-44-007	NEW	98-02-053	51-46-0610	NEW	98-02-055	131-16-021	AMD-P	98-06-075
51-44-008	NEW	98-02-053	51-46-0700	NEW	98-02-055	131-16-021	AMD-E	98-09-044
51-44-0103	NEW	98-02-053	51-46-0701	NEW	98-02-055	131-16-031	AMD-P	98-06-075
51-44-0200	NEW	98-02-053	51-46-0704	NEW	98-02-055	131-16-031	AMD-E	98-09-044
51-44-0900	NEW	98-02-053	51-46-0710	NEW	98-02-055	131-16-040	REP-P	98-06-075
51-44-1003	NEW	98-02-053	51-46-0713	NEW	98-02-055	131-16-045	AMD-P	98-06-075
51-44-1007	NEW	98-02-053	51-46-0793	NEW	98-02-055	131-16-045	AMD-E	98-09-044
51-44-10210	NEW	98-02-053	51-46-0800	NEW	98-02-055	131-16-050	AMD-P	98-06-075
51-44-1109	NEW	98-02-053	51-46-0810	NEW	98-02-055	131-16-050	AMD-E	98-09-044
51-44-2500	NEW	98-02-053	51-46-0814	NEW	98-02-055	131-16-055	AMD-P	98-06-075
51-44-5200	NEW	98-02-053	51-46-0815	NEW	98-02-055	131-16-055	AMD-E	98-09-044
51-44-6100	NEW	98-02-053	51-46-0900	NEW	98-02-055	131-16-056	AMD-P	98-06-075
51-44-6300	NEW	98-02-053	51-46-0903	NEW	98-02-055	131-16-056	AMD-E	98-09-044
51-44-7404	NEW	98-02-053	51-46-1000	NEW	98-02-055	131-16-060	REP-P	98-06-075
51-44-7802	NEW	98-02-053	51-46-1003	NEW	98-02-055	131-16-061	AMD-E	98-09-044
51-44-7900	NEW	98-02-053	51-46-1012	NEW	98-02-055	131-16-061	AMD-P	98-06-075
51-44-8000	NEW	98-02-053	51-46-1300	NEW	98-02-055	131-16-062	REP-P	98-06-075
51-45-001	NEW	98-02-053	51-46-1301	NEW	98-02-055	131-16-065	REP-P	98-06-075
51-45-002	NEW	98-02-053	51-46-1302	NEW	98-02-055	131-16-066	REP-P	98-06-075
51-45-003	NEW	98-02-053	51-46-1303	NEW	98-02-055	131-24	AMD-C	98-07-059
51-45-007	NEW	98-02-053	51-46-1304	NEW	98-02-055	131-24-010	AMD-P	98-06-073
51-45-008	NEW	98-02-053	51-46-1305	NEW	98-02-055	131-24-020	AMD-P	98-06-073
51-45-80400	NEW	98-02-053	51-46-1400	NEW	98-02-055	131-24-030	AMD-P	98-06-073
51-46-001	NEW	98-02-055	51-46-1401	NEW	98-02-055	131-24-040	REP-P	98-06-073
51-46-002	NEW	98-02-055	51-46-1491	NEW	98-02-055	131-28	AMD-C	98-07-059
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51-46-007	NEW	98-02-055	51-46-97121	NEW	98-02-055	131-28-02501	AMD-P	98-06-072
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51-46-0100	NEW	98-02-055	51-46-97123	NEW	98-02-055	131-28-026	AMD-P	98-06-072
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51-46-0205	NEW	98-02-055	51-46-97128	NEW	98-02-055	131-28-090	REP-P	98-06-072
51-46-0215	NEW	98-02-055	51-46-97129	NEW	98-02-055	131-36	AMD-P	98-06-074
51-46-0218	NEW	98-02-055	51-47-001	NEW	98-02-055	131-36	AMD-C	98-07-059
51-46-0300	NEW	98-02-055	51-47-002	NEW	98-02-055	131-36-010	AMD-P	98-06-074
51-46-0301	NEW	98-02-055	51-47-003	NEW	98-02-055	131-36-050	AMD-P	98-06-074
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51-46-0311	NEW	98-02-055	51-47-008	NEW	98-02-055	131-36-100	AMD-P	98-06-074
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51-46-0314	NEW	98-02-055	118-40-010	AMD	98-07-028	131-36-200	AMD-P	98-06-074
51-46-0316	NEW	98-02-055	118-40-020	AMD	98-07-028	131-36-250	AMD-P	98-06-074
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51-46-0400	NEW	98-02-055	118-40-040	AMD	98-07-028	131-46	REP-C	98-07-059
51-46-0402	NEW	98-02-055	118-40-050	AMD	98-07-028	131-46-020	REP-P	98-06-070
51-46-0412	NEW	98-02-055	118-40-060	AMD	98-07-028	131-46-025	REP-P	98-06-070
51-46-0413	NEW	98-02-055	118-40-070	AMD	98-07-028	131-46-027	REP-P	98-06-070
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51-46-0514	NEW	98-02-055	118-40-300	AMD	98-07-028	131-46-065	REP-P	98-06-070
51-46-0515	NEW	98-02-055	118-40-400	AMD	98-07-028	131-46-070	REP-P	98-06-070
51-46-0516	NEW	98-02-055	131-08	AMD-C	98-07-059	131-46-075	REP-P	98-06-070
51-46-0517	NEW	98-02-055	131-08-005	AMD-P	98-06-071	131-46-080	REP-P	98-06-070
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131-46-105	REP-P	98-06-070	136-220-020	AMD-W	98-06-044	173-160-071	NEW	98-08-032
131-46-110	REP-P	98-06-070	136-220-020	AMD-P	98-06-045	173-160-075	REP	98-08-032
131-46-115	REP-P	98-06-070	136-220-020	AMD	98-09-070	173-160-085	REP	98-08-032
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173-162-127	NEW-W	98-08-093	173-308-030	NEW	98-05-101	180-58-030	REP	98-05-006
173-162-130	AMD-W	98-08-093	173-308-040	NEW	98-05-101	180-58-040	REP	98-05-006
173-162-140	AMD	98-08-031	173-308-050	NEW	98-05-101	180-58-045	REP	98-05-006
173-162-165	NEW-W	98-08-093	173-308-060	NEW	98-05-101	180-58-055	REP	98-05-006
173-162-170	REP	98-08-031	173-308-070	NEW	98-05-101	180-58-065	REP	98-05-006
173-162-190	AMD	98-08-031	173-308-080	NEW	98-05-101	180-58-075	REP	98-05-006
173-162-200	AMD	98-08-031	173-308-090	NEW	98-05-101	180-58-085	REP	98-05-006
173-162-210	AMD	98-08-031	173-308-100	NEW	98-05-101	180-58-090	REP	98-05-006
173-202-020	AMD-XA	98-03-071	173-308-110	NEW	98-05-101	180-59-005	REP	98-05-007
173-202-020	AMD-S	98-04-021	173-308-120	NEW	98-05-101	180-59-010	REP	98-05-007
173-202-020	AMD-W	98-04-069	173-308-130	NEW	98-05-101	180-59-015	REP	98-05-007
173-202-020	AMD	98-07-026	173-308-140	NEW	98-05-101	180-59-020	REP	98-05-007
173-202-020	AMD-E	98-07-103	173-308-150	NEW	98-05-101	180-59-025	REP	98-05-007
173-202-020	AMD	98-08-058	173-308-160	NEW	98-05-101	180-59-030	REP	98-05-007
173-224-030	AMD	98-03-046	173-308-170	NEW	98-05-101	180-59-032	REP	98-05-007
173-224-040	AMD	98-03-046	173-308-180	NEW	98-05-101	180-59-035	REP	98-05-007
173-224-050	AMD	98-03-046	173-308-190	NEW	98-05-101	180-59-037	REP	98-05-007
173-303-017	AMD	98-03-018	173-308-200	NEW	98-05-101	180-59-040	REP	98-05-007
173-303-040	AMD	98-03-018	173-308-210	NEW	98-05-101	180-59-045	REP	98-05-007
173-303-045	AMD	98-03-018	173-308-220	NEW	98-05-101	180-59-047	REP	98-05-007
173-303-070	AMD	98-03-018	173-308-230	NEW	98-05-101	180-59-050	REP	98-05-007
173-303-071	AMD	98-03-018	173-308-240	NEW	98-05-101	180-59-055	REP	98-05-007
173-303-073	AMD	98-03-018	173-308-250	NEW	98-05-101	180-59-060	REP	98-05-007
173-303-077	AMD	98-03-018	173-308-260	NEW	98-05-101	180-59-065	REP	98-05-007
173-303-081	AMD	98-03-018	173-308-270	NEW	98-05-101	180-59-070	REP	98-05-007
173-303-082	AMD	98-03-018	173-308-275	NEW	98-05-101	180-59-075	REP	98-05-007
173-303-090	AMD	98-03-018	173-308-280	NEW	98-05-101	180-59-080	REP	98-05-007
173-303-100	AMD	98-03-018	173-308-290	NEW	98-05-101	180-59-090	REP	98-05-007
173-303-104	AMD	98-03-018	173-308-295	NEW	98-05-101	180-59-095	REP	98-05-007
173-303-110	AMD	98-03-018	173-308-300	NEW	98-05-101	180-59-100	REP	98-05-007
173-303-120	AMD	98-03-018	173-308-310	NEW	98-05-101	180-59-105	REP	98-05-007
173-303-140	AMD	98-03-018	173-308-320	NEW	98-05-101	180-59-110	REP	98-05-007
173-303-145	AMD	98-03-018	173-308-900	NEW	98-05-101	180-59-115	REP	98-05-007
173-303-160	AMD	98-03-018	173-400	PREP	98-06-090	180-59-120	REP	98-05-007
173-303-180	AMD	98-03-018	173-400-115	AMD-P	98-09-097	180-59-125	REP	98-05-007
173-303-201	AMD	98-03-018	173-430-030	AMD-P	98-08-079	180-59-130	REP	98-05-007
173-303-210	AMD	98-03-018	173-430-040	AMD-P	98-08-079	180-59-135	REP	98-05-007
173-303-230	AMD	98-03-018	173-430-045	NEW-P	98-08-079	180-59-140	REP	98-05-007
173-303-280	AMD	98-03-018	173-460-060	AMD	98-04-062	180-59-145	REP	98-05-007
173-303-282	AMD	98-03-018	173-490-203	REP	98-04-061	180-59-150	REP	98-05-007
173-303-300	AMD	98-03-018	173-531A-060	AMD	98-08-062	180-59-155	REP	98-05-007
173-303-335	AMD-W	98-05-062	173-563-015	REP	98-08-062	180-59-160	REP	98-05-007
173-303-350	AMD	98-03-018	173-563-020	AMD	98-08-062	180-59-165	REP	98-05-007
173-303-380	AMD	98-03-018	180-16-002	AMD-P	98-04-088	180-78A	PREP	98-06-030
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180-79A-340	AMD	98-05-023	196-08-080	REP-P	98-08-078	196-26-030	AMD-P	98-09-051
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180-79A-422	PREP	98-04-087	196-08-100	REP-P	98-08-078	204-10-020	AMD	98-04-053
180-85-100	AMD	98-05-024	196-08-110	REP-P	98-08-078	204-10-070	AMD	98-04-053
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182-25-020	AMD	98-07-002	196-08-140	REP-P	98-08-078	204-10-110	REP	98-04-053
182-25-030	AMD	98-07-002	196-08-150	REP-P	98-08-078	204-10-130	REP	98-04-053
182-25-040	AMD	98-07-002	196-08-160	REP-P	98-08-078	204-10-140	REP	98-04-053
182-25-070	AMD	98-07-002	196-08-170	REP-P	98-08-078	204-10-150	REP	98-04-053
182-25-080	AMD	98-07-002	196-08-180	REP-P	98-08-078	204-72-030	AMD	98-04-054
182-25-090	AMD	98-07-002	196-08-190	REP-P	98-08-078	204-72-040	AMD	98-04-054
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192-12-030	AMD-P	98-09-106	196-08-220	REP-P	98-08-078	204-90-070	AMD	98-04-052
192-12-040	AMD-P	98-09-105	196-08-230	REP-P	98-08-078	204-90-120	AMD	98-04-052
192-12-041	AMD-P	98-09-105	196-08-240	REP-P	98-08-078	204-90-140	AMD	98-04-052
192-12-042	AMD-P	98-09-105	196-08-250	REP-P	98-08-078	212-17-185	AMD	98-04-007
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192-16-051	PREP	98-08-072	196-08-270	REP-P	98-08-078	212-17-195	REP-XR	98-07-019
192-16-052	PREP	98-08-072	196-08-280	REP-P	98-08-078	212-17-200	REP-XR	98-07-019
192-16-057	PREP	98-08-072	196-08-290	REP-P	98-08-078	212-17-205	REP-XR	98-07-019
192-18-010	REP-XR	98-07-023	196-08-300	REP-P	98-08-078	212-17-210	REP-XR	98-07-019
192-18-012	REP-XR	98-07-023	196-08-310	REP-P	98-08-078	212-17-215	REP-XR	98-07-019
192-18-020	REP-XR	98-07-023	196-08-320	REP-P	98-08-078	212-17-21503	NEW	98-04-007
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192-23-018	AMD	98-06-097	196-08-390	REP-P	98-08-078	212-17-21517	NEW	98-04-007
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192-32-001	REP	98-05-042	196-08-410	REP-P	98-08-078	220-12-010	AMD	98-06-031
192-32-010	AMD	98-05-042	196-08-420	REP-P	98-08-078	220-12-020	AMD	98-06-031
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192-32-025	REP	98-05-042	196-08-440	REP-P	98-08-078	220-16-475	NEW	98-06-031
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192-32-045	AMD	98-05-042	196-08-460	REP-P	98-08-078	220-16-490	NEW-P	98-09-089
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192-32-055	AMD	98-05-042	196-08-480	REP-P	98-08-078	220-16-590	NEW	98-06-031
192-32-065	AMD	98-05-042	196-08-490	REP-P	98-08-078	220-16-610	NEW	98-06-031
192-32-075	AMD	98-05-042	196-08-500	REP-P	98-08-078	220-16-700	NEW	98-06-031
192-32-085	AMD	98-05-042	196-08-510	REP-P	98-08-078	220-16-710	NEW	98-06-031
192-32-095	AMD	98-05-042	196-08-520	REP-P	98-08-078	220-16-720	NEW	98-06-031
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192-32-105	AMD	98-05-042	196-08-540	REP-P	98-08-078	220-20-010	AMD-P	98-09-089
192-32-115	AMD	98-05-042	196-08-550	REP-P	98-08-078	220-20-01000A	NEW-E	98-05-014
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192-32-125	REP	98-05-042	196-08-570	REP-P	98-08-078	220-20-01000B	NEW-E	98-08-046
192-32-130	NEW	98-05-042	196-08-580	REP-P	98-08-078	220-20-015	AMD-P	98-09-089
192-32-135	NEW	98-05-042	196-08-590	REP-P	98-08-078	220-20-020	AMD-P	98-09-089
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194-10-040	REP	98-05-027	196-12-045	NEW-P	98-08-105	220-32-05100E	NEW-E	98-04-068
194-10-050	REP	98-05-027	196-12-050	AMD-P	98-08-105	220-32-05100E	REP-E	98-04-068
194-10-060	REP	98-05-027	196-12-060	REP-P	98-08-105	220-32-05100E	REP-E	98-07-057
194-10-070	REP	98-05-027	196-12-085	REP-P	98-08-105	220-32-05500M	NEW-E	98-09-022
194-10-080	REP	98-05-027	196-24-030	REP-P	98-08-105	220-32-05500M	REP-E	98-09-022
194-10-090	REP	98-05-027	196-24-040	REP-P	98-08-105	220-32-05700X	NEW-E	98-04-006
194-10-100	REP	98-05-027	196-24-050	REP-P	98-08-105	220-32-05700X	REP-E	98-04-006
194-10-110	REP	98-05-027	196-24-105	AMD-P	98-08-105	220-32-05700Y	NEW-E	98-08-027
194-10-120	REP	98-05-027	196-25-001	NEW-P	98-08-106	220-33-01000Z	NEW-E	98-08-046
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220-48-013	AMD-P	98-09-087	220-56-350	AMD	98-06-031	230-30-225	NEW-P	98-06-027
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220-49-011	AMD	98-05-043	220-56-36000V	NEW-E	98-09-095	232-12-619	AMD	98-06-031
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246-976-810	AMD	98-04-038	250-61-150	REP	98-08-005	284-10-140	REP	98-04-005
246-976-820	AMD	98-04-038	250-71-050	AMD	98-08-003	284-17-135	REP	98-06-022
246-976-822	NEW	98-04-038	251-04-170	NEW-C	98-06-014	284-17-220	AMD-XA	98-07-104
246-976-830	AMD	98-04-038	251-04-170	NEW	98-08-024	284-17-300	REP-XA	98-04-084
246-976-840	AMD	98-04-038	251-10-030	AMD	98-03-051	284-17-300	REP	98-09-041
246-976-850	AMD	98-04-038	251-19-100	AMD-C	98-06-015	284-17-570	REP-XA	98-07-065
246-976-860	AMD	98-04-038	251-19-100	AMD	98-08-026	284-19-010	AMD-XA	98-08-097
246-976-870	NEW	98-04-038	251-19-105	AMD-C	98-06-013	284-19-020	AMD-XA	98-08-097
246-976-880	REP	98-04-038	251-19-105	AMD	98-08-025	284-19-030	REP-XA	98-08-097
246-976-881	NEW	98-04-038	251-19-154	NEW-P	98-09-067	284-19-040	AMD-XA	98-08-097
246-976-885	AMD	98-04-038	255-01-010	NEW-P	98-04-060	284-19-050	AMD-XA	98-08-097
246-976-890	AMD	98-04-038	255-01-010	NEW	98-07-071	284-19-060	AMD-XA	98-08-097
246-976-935	NEW	98-05-035	255-01-020	NEW-P	98-04-060	284-19-070	AMD-XA	98-08-097
250-10-010	REP	98-08-006	255-01-020	NEW	98-07-071	284-19-080	AMD-XA	98-08-097
250-10-020	REP	98-08-006	255-01-030	NEW-P	98-04-060	284-19-090	AMD-XA	98-08-097
250-10-022	REP	98-08-006	255-01-030	NEW	98-07-071	284-19-100	AMD-XA	98-08-097
250-10-026	REP	98-08-006	255-01-040	NEW-P	98-04-060	284-19-110	AMD-XA	98-08-097
250-10-028	REP	98-08-006	255-01-040	NEW	98-07-071	284-19-120	AMD-XA	98-08-097
250-10-030	REP	98-08-006	255-01-050	NEW-P	98-04-060	284-19-130	AMD-XA	98-08-097
250-10-040	REP	98-08-006	255-01-050	NEW	98-07-071	284-19-140	AMD-XA	98-08-097
250-10-050	REP	98-08-006	255-01-060	NEW-P	98-04-060	284-19-150	AMD-XA	98-08-097
250-10-060	REP	98-08-006	255-01-060	NEW	98-07-071	284-19-160	AMD-XA	98-08-097
250-10-070	REP	98-08-006	255-01-070	NEW-P	98-04-060	284-19-170	AMD-XA	98-08-097
250-10-080	REP	98-08-006	255-01-070	NEW	98-07-071	284-19-180	AMD-XA	98-08-097
250-10-090	REP	98-08-006	255-01-080	NEW-P	98-04-060	284-23	AMD-C	98-02-062
250-10-100	REP	98-08-006	255-01-080	NEW	98-07-071	284-23	AMD-C	98-03-076
250-10-110	REP	98-08-006	255-01-090	NEW-P	98-04-060	284-23	AMD-C	98-07-062
250-10-120	REP	98-08-006	255-01-090	NEW	98-07-071	284-23-120	REP-XA	98-07-065
250-10-130	REP	98-08-006	255-01-100	NEW-P	98-04-060	284-23-130	REP-XA	98-07-065
250-10-140	REP	98-08-006	255-01-100	NEW	98-07-071	284-23-200	AMD-P	98-04-083
250-10-150	REP	98-08-006	255-01-110	NEW-P	98-04-060	284-23-210	AMD-P	98-04-083
250-10-160	REP	98-08-006	255-01-110	NEW	98-07-071	284-23-220	AMD-P	98-04-083
250-10-170	REP	98-08-006	255-01-120	NEW-P	98-04-060	284-23-230	AMD-P	98-04-083
250-12-010	REP	98-08-008	255-01-120	NEW	98-07-071	284-23-235	NEW-P	98-04-083
250-12-020	REP	98-08-008	255-01-130	NEW-P	98-04-060	284-23-240	AMD-P	98-04-083
250-12-030	REP	98-08-008	255-01-130	NEW	98-07-071	284-23-250	AMD-P	98-04-083
250-12-040	REP	98-08-008	255-01-140	NEW-P	98-04-060	284-23-260	REP-P	98-04-083
250-12-050	REP	98-08-008	255-01-140	NEW	98-07-071	284-23-270	REP-P	98-04-083
250-12-060	REP	98-08-008	255-02-010	NEW-P	98-04-059	284-23-380	REP-XA	98-07-065
250-12-070	REP	98-08-008	255-02-020	NEW-P	98-04-059	284-23-610	AMD	98-05-026
250-16-001	REP	98-08-007	255-02-030	NEW-P	98-04-059	284-23-620	AMD	98-05-026
250-16-010	REP	98-08-007	255-02-040	NEW-P	98-04-059	284-23-640	AMD	98-05-026
250-16-020	REP	98-08-007	255-02-050	NEW-P	98-04-059	284-23-645	NEW	98-05-026
250-16-030	REP	98-08-007	255-02-060	NEW-P	98-04-059	284-23-650	AMD	98-05-026
250-16-040	REP	98-08-007	255-02-070	NEW-P	98-04-059	284-23-660	AMD	98-05-026
250-16-050	REP	98-08-007	255-02-080	NEW-P	98-04-059	284-23-690	AMD	98-05-026
250-16-060	REP	98-08-007	255-02-090	NEW-P	98-04-059	284-23-710	AMD	98-05-026
250-18-020	AMD	98-08-004	255-02-100	NEW-P	98-04-059	284-23-730	AMD	98-05-026
250-18-060	AMD	98-08-004	255-02-110	NEW-P	98-04-059	284-24	PREP	98-05-102
250-55-010	REP	98-08-009	260-32-180	AMD	98-07-070	284-24-065	PREP	98-04-081
250-55-020	REP	98-08-009	260-32-360	REP	98-07-070	284-28-001	REP-XA	98-07-065
250-55-030	REP	98-08-009	275-25	PREP	98-09-092	284-36A-010	AMD-XA	98-04-085
250-55-040	REP	98-08-009	275-26	PREP	98-09-092	284-36A-010	AMD	98-09-016
250-55-050	REP	98-08-009	275-27	PREP	98-09-092	284-36A-020	AMD-XA	98-04-085
250-55-060	REP	98-08-009	275-27-030	PREP	98-09-094	284-36A-020	AMD	98-09-016
250-55-070	REP	98-08-009	275-27-810	PREP	98-09-094	284-36A-025	AMD-XA	98-04-085
250-55-080	REP	98-08-009	275-27-820	PREP	98-09-094	284-36A-025	AMD	98-09-016
250-55-090	REP	98-08-009	275-31	PREP	98-09-092	284-36A-030	REP-XA	98-04-085
250-55-100	REP	98-08-009	275-38	PREP	98-09-092	284-36A-030	REP	98-09-016
250-55-110	REP	98-08-009	275-41	PREP	98-09-092	284-36A-040	NEW-XA	98-04-085
250-55-120	REP	98-08-009	284-01-050	NEW	98-04-063	284-36A-040	NEW	98-09-016
250-55-130	REP	98-08-009	284-05-040	AMD-XA	98-07-105	284-36A-045	NEW-XA	98-04-085
250-55-140	REP	98-08-009	284-05-060	AMD-XA	98-07-105	284-36A-045	NEW	98-09-016
250-55-150	REP	98-08-009	284-05-070	REP-XA	98-07-105	284-36A-050	NEW-XA	98-04-085
250-55-160	REP	98-08-009	284-10	REP-C	98-03-004	284-36A-050	NEW	98-09-016
250-55-170	REP	98-08-009	284-10-010	REP	98-04-005	284-36A-055	NEW-XA	98-04-085
250-55-180	REP	98-08-009	284-10-015	REP	98-04-005	284-36A-055	NEW	98-09-016
250-55-190	REP	98-08-009	284-10-020	REP	98-04-005	284-36A-060	NEW-XA	98-04-085
250-55-200	REP	98-08-009	284-10-030	REP	98-04-005	284-36A-060	NEW	98-09-016
250-55-210	REP	98-08-009	284-10-050	REP	98-04-005	284-36A-065	NEW-XA	98-04-085
250-55-220	REP	98-08-009	284-10-060	REP	98-04-005	284-36A-065	NEW	98-09-016
250-61-060	AMD-XA	98-08-001	284-10-070	REP	98-04-005	284-43	AMD-C	98-02-063

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
284-43	AMD-C	98-03-004	286-04-060	AMD	98-08-014	296-04A-420	NEW-W	98-07-058
284-43	AMD	98-04-005	286-06-065	AMD-P	97-04-079	296-04A-430	NEW-W	98-07-058
284-43-040	REP	98-04-005	286-06-065	AMD	98-08-014	296-04A-440	NEW-W	98-07-058
284-43-100	REP	98-04-005	286-13-030	AMD-P	98-04-079	296-04A-460	NEW-W	98-07-058
284-43-110	NEW	98-04-005	286-13-030	AMD	98-08-014	296-04A-470	NEW-W	98-07-058
284-43-120	NEW	98-04-005	286-13-040	AMD-P	98-04-079	296-04A-480	NEW-W	98-07-058
284-43-130	NEW	98-04-005	286-13-040	AMD	98-08-014	296-08-001	REP-XR	98-08-102
284-43-200	NEW	98-04-005	286-13-045	AMD-P	98-04-079	296-08-020	REP-XR	98-08-102
284-43-210	NEW	98-04-005	286-13-045	AMD	98-08-014	296-08-030	REP-XR	98-08-102
284-43-220	NEW	98-04-005	286-13-070	AMD-P	98-04-079	296-08-040	REP-XR	98-08-102
284-43-250	NEW	98-04-005	286-13-070	AMD	98-08-014	296-08-050	REP-XR	98-08-102
284-43-300	NEW	98-04-005	286-13-085	AMD-P	98-04-079	296-08-060	REP-XR	98-08-102
284-43-310	NEW	98-04-005	286-13-085	AMD	98-08-014	296-08-070	REP-XR	98-08-102
284-43-320	NEW	98-04-005	286-13-100	AMD-P	98-04-079	296-08-080	REP-XR	98-08-102
284-43-330	NEW	98-04-005	286-13-100	AMD	98-08-014	296-08-090	REP-XR	98-08-102
284-43-340	NEW	98-04-005	286-26-020	AMD-P	98-04-079	296-08-100	REP-XR	98-08-102
284-43-700	NEW	98-04-005	286-26-020	AMD	98-08-014	296-08-110	REP-XR	98-08-102
284-43-710	NEW	98-04-005	286-26-110	AMD-P	98-04-079	296-08-120	REP-XR	98-08-102
284-43-720	NEW	98-04-005	286-26-110	AMD	98-08-014	296-08-130	REP-XR	98-08-102
284-43-730	NEW	98-04-005	286-27-040	AMD-P	98-04-079	296-08-140	REP-XR	98-08-102
284-43-800	NEW	98-04-005	286-27-040	AMD	98-08-014	296-08-150	REP-XR	98-08-102
284-43-900	NEW	98-04-011	286-27-055	AMD-P	98-04-079	296-08-160	REP-XR	98-08-102
284-43-905	NEW	98-04-011	286-27-055	AMD	98-08-014	296-08-170	REP-XR	98-08-102
284-43-910	NEW	98-04-011	286-27-065	AMD-P	98-04-079	296-08-180	REP-XR	98-08-102
284-43-915	NEW	98-04-011	286-27-065	AMD	98-08-014	296-08-190	REP-XR	98-08-102
284-43-920	NEW	98-04-011	286-27-075	AMD-P	98-04-079	296-08-200	REP-XR	98-08-102
284-43-925	NEW	98-04-011	286-27-075	AMD	98-08-014	296-08-210	REP-XR	98-08-102
284-43-930	NEW	98-04-011	286-30-050	NEW-P	98-04-079	296-08-220	REP-XR	98-08-102
284-43-930	AMD-XA	98-07-105	286-30-050	NEW	98-08-014	296-08-370	REP-XR	98-08-102
284-43-935	NEW	98-04-011	286-35-060	AMD-P	98-04-079	296-08-380	REP-XR	98-08-102
284-43-940	NEW	98-04-011	286-35-060	AMD	98-08-014	296-08-390	REP-XR	98-08-102
284-43-945	NEW	98-04-011	292-110-010	AMD	98-08-054	296-08-400	REP-XR	98-08-102
284-43-950	NEW	98-04-011	292-110-050	NEW	98-03-045	296-08-410	REP-XR	98-08-102
284-43-955	NEW	98-04-011	292-110-060	NEW	98-04-001	296-08-420	REP-XR	98-08-102
284-44	REP-C	98-02-063	296-04	PREP	98-09-063	296-08-430	REP-XR	98-08-102
284-44	REP-C	98-03-004	296-04A-001	NEW-W	98-07-058	296-08-440	REP-XR	98-08-102
284-44-100	REP	98-04-011	296-04A-003	NEW-W	98-07-058	296-08-450	REP-XR	98-08-102
284-44-110	REP	98-04-011	296-04A-006	NEW-W	98-07-058	296-08-460	REP-XR	98-08-102
284-44-120	REP	98-04-011	296-04A-009	NEW-W	98-07-058	296-08-470	REP-XR	98-08-102
284-44-130	REP	98-04-011	296-04A-012	NEW-W	98-07-058	296-08-480	REP-XR	98-08-102
284-44-140	REP	98-04-011	296-04A-015	NEW-W	98-07-058	296-08-490	REP-XR	98-08-102
284-44-150	REP	98-04-011	296-04A-018	NEW-W	98-07-058	296-08-500	REP-XR	98-08-102
284-44-160	REP	98-04-011	296-04A-025	NEW-W	98-07-058	296-08-510	REP-XR	98-08-102
284-44-190	REP	98-04-011	296-04A-028	NEW-W	98-07-058	296-08-520	REP-XR	98-08-102
284-44-200	REP	98-04-011	296-04A-034	NEW-W	98-07-058	296-08-530	REP-XR	98-08-102
284-44-210	REP	98-04-011	296-04A-037	NEW-W	98-07-058	296-08-540	REP-XR	98-08-102
284-44-220	REP	98-04-011	296-04A-040	NEW-W	98-07-058	296-08-550	REP-XR	98-08-102
284-44-240	REP	98-04-005	296-04A-043	NEW-W	98-07-058	296-08-560	REP-XR	98-08-102
284-44-360	REP-XA	98-07-065	296-04A-046	NEW-W	98-07-058	296-08-570	REP-XR	98-08-102
284-44-410	REP	98-04-005	296-04A-049	NEW-W	98-07-058	296-08-580	REP-XR	98-08-102
284-46	REP-C	98-03-004	296-04A-052	NEW-W	98-07-058	296-08-590	REP-XR	98-08-102
284-46-020	REP	98-04-005	296-04A-055	NEW-W	98-07-058	296-20-03004	REP-XR	98-08-101
284-46-575	REP	98-04-005	296-04A-060	NEW-W	98-07-058	296-20-135	AMD-P	98-05-100
284-50-435	REP-XA	98-07-065	296-04A-100	NEW-W	98-07-058	296-20-135	AMD	98-09-125
284-51-180	REP-XA	98-04-084	296-04A-110	NEW-W	98-07-058	296-23-220	AMD-P	98-05-100
284-51-180	REP	98-09-041	296-04A-120	NEW-W	98-07-058	296-23-220	AMD	98-09-125
284-58-010	AMD-XA	98-08-098	296-04A-130	NEW-W	98-07-058	296-23-230	AMD-P	98-05-100
284-58-020	AMD-XA	98-08-098	296-04A-150	NEW-W	98-07-058	296-23-230	AMD	98-09-125
284-58-040	REP-XA	98-04-084	296-04A-200	NEW-W	98-07-058	296-24	PREP	98-08-104
284-58-040	REP	98-09-041	296-04A-210	NEW-W	98-07-058	296-24-060	REP	98-06-061
284-58-050	REP-XA	98-04-084	296-04A-230	NEW-W	98-07-058	296-24-061	NEW	98-06-061
284-58-050	REP	98-09-041	296-04A-300	NEW-W	98-07-058	296-24-06105	NEW	98-06-061
284-58-060	REP-XA	98-04-084	296-04A-30001	NEW-W	98-07-058	296-24-06110	NEW	98-06-061
284-58-060	REP	98-09-041	296-04A-330	NEW-W	98-07-058	296-24-06115	NEW	98-06-061
284-58-250	AMD-XA	98-08-098	296-04A-340	NEW-W	98-07-058	296-24-06120	NEW	98-06-061
284-58-260	AMD-XA	98-08-098	296-04A-350	NEW-W	98-07-058	296-24-06125	NEW	98-06-061
284-58-270	REP-XA	98-08-098	296-04A-351	NEW-W	98-07-058	296-24-06130	NEW	98-06-061
284-58-280	REP-XA	98-08-098	296-04A-360	NEW-W	98-07-058	296-24-06135	NEW	98-06-061
284-74-010	AMD	98-05-069	296-04A-370	NEW-W	98-07-058	296-24-06140	NEW	98-06-061
284-74-020	NEW	98-05-069	296-04A-380	NEW-W	98-07-058	296-24-06145	NEW	98-06-061
286-04-010	AMD-P	98-04-079	296-04A-390	NEW-W	98-07-058	296-24-06150	NEW	98-06-061
286-04-010	AMD	98-08-014	296-04A-400	NEW-W	98-07-058	296-24-06155	NEW	98-06-061
286-04-060	AMD-P	98-04-079	296-04A-410	NEW-W	98-07-058	296-24-06160	NEW	98-06-061

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296-45-095	NEW	98-07-009	296-45-650	REP	98-07-009	296-86-090	REP-P	98-07-094
296-45-105	NEW	98-07-009	296-45-65003	REP	98-07-009	296-86A-010	NEW-P	98-07-094
296-45-115	NEW	98-07-009	296-45-65005	REP	98-07-009	296-86A-020	NEW-P	98-07-094
296-45-125	NEW	98-07-009	296-45-65009	REP	98-07-009	296-86A-025	NEW-P	98-07-094
296-45-135	NEW	98-07-009	296-45-65011	REP	98-07-009	296-86A-028	NEW-P	98-07-094
296-45-175	NEW	98-07-009	296-45-65013	REP	98-07-009	296-86A-030	NEW-P	98-07-094
296-45-17505	NEW	98-07-009	296-45-65015	REP	98-07-009	296-86A-040	NEW-P	98-07-094
296-45-17510	NEW	98-07-009	296-45-65017	REP	98-07-009	296-86A-060	NEW-P	98-07-094
296-45-17515	NEW	98-07-009	296-45-65019	REP	98-07-009	296-86A-065	NEW-P	98-07-094
296-45-17520	NEW	98-07-009	296-45-65021	REP	98-07-009	296-86A-070	NEW-P	98-07-094
296-45-17525	NEW	98-07-009	296-45-65023	REP	98-07-009	296-86A-073	NEW-P	98-07-094
296-45-17530	NEW	98-07-009	296-45-65026	REP	98-07-009	296-86A-074	NEW-P	98-07-094
296-45-17535	NEW	98-07-009	296-45-65027	REP	98-07-009	296-86A-075	NEW-P	98-07-094
296-45-17540	NEW	98-07-009	296-45-65029	REP	98-07-009	296-86A-080	NEW-P	98-07-094
296-45-17545	NEW	98-07-009	296-45-65031	REP	98-07-009	296-104	PREP	98-09-065
296-45-17550	NEW	98-07-009	296-45-65033	REP	98-07-009	296-104-700	AMD-P	98-04-017
296-45-17555	NEW	98-07-009	296-45-65035	REP	98-07-009	296-104-700	AMD	98-09-064
296-45-17560	NEW	98-07-009	296-45-65037	REP	98-07-009	296-124-010	REP-XR	98-07-093
296-45-17565	NEW	98-07-009	296-45-65038	REP	98-07-009	296-124-020	REP-XR	98-07-093
296-45-195	NEW	98-07-009	296-45-65039	REP	98-07-009	296-124-021	REP-XR	98-07-093
296-45-205	NEW	98-07-009	296-45-65041	REP	98-07-009	296-124-022	REP-XR	98-07-093
296-45-215	NEW	98-07-009	296-45-65043	REP	98-07-009	296-124-040	REP-XR	98-07-093
296-45-225	NEW	98-07-009	296-45-65045	REP	98-07-009	296-124-050	REP-XR	98-07-093
296-45-255	NEW	98-07-009	296-45-65047	REP	98-07-009	296-125	PREP	98-02-079
296-45-25505	NEW	98-07-009	296-45-660	REP	98-07-009	296-126-098	REP-XR	98-08-103
296-45-25510	NEW	98-07-009	296-45-66001	REP	98-07-009	296-150C-0020	AMD-P	98-07-095
296-45-275	NEW	98-07-009	296-45-66003	REP	98-07-009	296-150C-0310	AMD-P	98-07-095
296-45-285	NEW	98-07-009	296-45-66005	REP	98-07-009	296-150C-0320	AMD-P	98-07-095
296-45-295	NEW	98-07-009	296-45-66007	REP	98-07-009	296-150C-0410	AMD-P	98-07-095
296-45-305	NEW	98-07-009	296-45-66009	REP	98-07-009	296-150C-0460	AMD-P	98-07-095
296-45-315	NEW	98-07-009	296-45-66011	REP	98-07-009	296-150C-0500	AMD-P	98-07-095
296-45-325	NEW	98-07-009	296-45-67543	AMD-W	98-07-008	296-150C-0560	AMD-P	98-07-095
296-45-335	NEW	98-07-009	296-45-680	REP	98-07-009	296-150C-0800	AMD-P	98-07-095
296-45-345	NEW	98-07-009	296-45-690	REP	98-07-009	296-150C-0820	AMD-P	98-07-095
296-45-355	NEW	98-07-009	296-45-695	REP	98-07-009	296-150C-0960	AMD-P	98-07-095
296-45-365	NEW	98-07-009	296-45-700	REP	98-07-009	296-150C-0980	REP-P	98-07-095
296-45-375	NEW	98-07-009	296-45-900	NEW	98-07-009	296-150C-1080	AMD-P	98-07-095
296-45-385	NEW	98-07-009	296-45-901	NEW	98-07-009	296-150C-1170	AMD-P	98-07-095
296-45-455	NEW	98-07-009	296-45-903	NEW	98-07-009	296-150C-1303	NEW-P	98-07-095
296-45-45505	NEW	98-07-009	296-45-905	NEW	98-07-009	296-150C-1580	AMD-P	98-07-095
296-45-45510	NEW	98-07-009	296-46-100	NEW-P	98-07-097	296-150C-1590	AMD-P	98-07-095
296-45-45515	NEW	98-07-009	296-46-140	AMD-P	98-07-097	296-150C-1600	AMD-P	98-07-095
296-45-45520	NEW	98-07-009	296-46-155	NEW-P	98-07-097	296-150C-1720	AMD-P	98-07-095
296-45-45525	NEW	98-07-009	296-46-21052	AMD-P	98-07-097	296-150C-1730	AMD-P	98-07-095
296-45-45530	NEW	98-07-009	296-46-225	AMD-P	98-07-097	296-150C-1740	AMD-P	98-07-095
296-45-465	NEW	98-07-009	296-46-23028	AMD-P	98-07-097	296-150C-1750	NEW-P	98-07-095
296-45-475	NEW	98-07-009	296-46-30001	AMD-P	98-07-097	296-150C-1751	NEW-P	98-07-095
296-45-485	NEW	98-07-009	296-46-348	AMD-P	98-07-097	296-150C-1752	NEW-P	98-07-095
296-45-48505	NEW	98-07-009	296-46-495	AMD-P	98-07-097	296-150C-1753	NEW-P	98-07-095
296-45-48510	NEW	98-07-009	296-46-50002	NEW-P	98-07-097	296-150C-1754	NEW-P	98-07-095
296-45-48515	NEW	98-07-009	296-46-770	AMD-P	98-07-097	296-150C-1755	NEW-P	98-07-095
296-45-48520	NEW	98-07-009	296-46-910	AMD-P	98-07-097	296-150C-1756	NEW-P	98-07-095
296-45-48525	NEW	98-07-009	296-46-915	AMD-P	98-07-097	296-150C-1757	NEW-P	98-07-095
296-45-48530	NEW	98-07-009	296-46-920	AMD-P	98-07-097	296-150C-1757	NEW-P	98-07-095
296-45-48535	NEW	98-07-009	296-46-930	AMD-P	98-07-097	296-150C-1758	NEW-P	98-07-095
296-45-48540	NEW	98-07-009	296-46-940	AMD-P	98-07-097	296-150C-1759	NEW-P	98-07-095
296-45-48545	NEW	98-07-009	296-56	PREP	98-08-104	296-150C-1760	NEW-P	98-07-095
296-45-48550	NEW	98-07-009	296-62	PREP	98-08-104	296-150C-3000	AMD-P	98-07-096
296-45-48555	NEW	98-07-009	296-62-07477	AMD-P	98-05-061	296-150F-0020	AMD-P	98-07-095
296-45-48560	NEW	98-07-009	296-62-07515	AMD-P	98-05-061	296-150F-0130	NEW-P	98-07-095
296-45-525	NEW	98-07-009	296-65	PREP	98-08-104	296-150F-0200	AMD-P	98-07-095
296-45-52505	NEW	98-07-009	296-78	PREP	98-08-104	296-150F-0210	AMD-P	98-07-095
296-45-52510	NEW	98-07-009	296-81	PREP	98-02-080	296-150F-0460	AMD-P	98-07-095
296-45-52515	NEW	98-07-009	296-81-007	AMD-P	98-07-094	296-150F-0500	AMD-P	98-07-095
296-45-52520	NEW	98-07-009	296-86-010	REP-P	98-07-094	296-150F-3000	AMD-P	98-07-096
296-45-52525	NEW	98-07-009	296-86-020	REP-P	98-07-094	296-150M-0020	AMD-P	98-07-095
296-45-52530	NEW	98-07-009	296-86-030	REP-P	98-07-094	296-150M-0306	NEW-P	98-07-095
296-45-52535	NEW	98-07-009	296-86-040	REP-P	98-07-094	296-150M-0307	NEW-P	98-07-095
296-45-52540	NEW	98-07-009	296-86-050	REP-P	98-07-094	296-150M-0310	AMD-P	98-07-095
296-45-52545	NEW	98-07-009	296-86-060	REP-P	98-07-094	296-150M-0331	NEW-P	98-07-095
296-45-52550	NEW	98-07-009	296-86-070	REP-P	98-07-094	296-150M-0400	AMD-P	98-07-095
296-45-545	NEW	98-07-009	296-86-075	REP-P	98-07-094	296-150M-0600	AMD-P	98-07-095
296-45-60013	REP	98-07-009	296-86-080	REP-P	98-07-094	296-150M-0610	AMD-P	98-07-095
						296-150M-0620	AMD-P	98-07-095

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296-150M-0640	AMD-P	98-07-095	296-400A-110	AMD-P	98-09-124	308-56A-010	PREP	98-03-024
296-150M-0660	AMD-P	98-07-095	296-400A-120	AMD-P	98-09-124	308-56A-010	AMD-P	98-08-049
296-150M-0700	REP-P	98-07-095	296-400A-140	AMD-P	98-09-124	308-56A-015	PREP	98-03-024
296-150M-0710	REP-P	98-07-095	296-400A-300	AMD-P	98-09-124	308-56A-015	AMD-P	98-08-049
296-150M-0730	REP-P	98-07-095	296-401-020	REP-P	98-07-097	308-56A-020	PREP	98-03-024
296-150M-3000	AMD-P	98-07-096	296-401-030	REP-P	98-07-097	308-56A-020	AMD-P	98-08-049
296-150P-3000	AMD-P	98-07-096	296-401-060	REP-P	98-07-097	308-56A-021	PREP	98-03-024
296-150R-3000	AMD-P	98-07-096	296-401-075	REP-P	98-07-097	308-56A-021	AMD-P	98-08-049
296-155	PREP	98-08-104	296-401-080	REP-P	98-07-097	308-56A-022	PREP	98-03-024
296-155-229	NEW-P	98-05-073	296-401-085	REP-P	98-07-097	308-56A-022	AMD-P	98-08-049
296-155-24525	AMD	98-05-046	296-401-087	REP-P	98-07-097	308-56A-023	PREP	98-03-024
296-155-330	AMD-P	98-05-073	296-401-090	REP-P	98-07-097	308-56A-023	AMD-P	98-08-049
296-155-481	AMD	98-05-046	296-401-100	REP-P	98-07-097	308-56A-080	PREP	98-03-024
296-155-482	NEW	98-05-046	296-401-110	REP-P	98-07-097	308-56A-080	REP-P	98-08-049
296-155-483	AMD	98-05-046	296-401-120	REP-P	98-07-097	308-56A-085	REP-P	98-03-024
296-155-484	NEW	98-05-046	296-401-150	REP-P	98-07-097	308-56A-085	REP-P	98-08-049
296-155-485	AMD	98-05-046	296-401-160	REP-P	98-07-097	308-56A-090	PREP	98-03-024
296-155-48503	REP	98-05-046	296-401-163	REP-P	98-07-097	308-56A-090	AMD-P	98-08-049
296-155-48504	REP	98-05-046	296-401-165	REP-P	98-07-097	308-93-010	AMD-E	98-09-001
296-155-48505	REP	98-05-046	296-401-168	REP-P	98-07-097	308-93-050	AMD-E	98-09-001
296-155-48506	REP	98-05-046	296-401-170	REP-P	98-07-097	308-93-055	NEW-E	98-09-001
296-155-48507	REP	98-05-046	296-401-175	REP-P	98-07-097	308-93-056	NEW-E	98-09-001
296-155-48508	REP	98-05-046	296-401-180	REP-P	98-07-097	308-93-060	PREP	98-03-026
296-155-48509	REP	98-05-046	296-401A-100	NEW-P	98-07-097	308-93-070	PREP	98-03-026
296-155-48510	REP	98-05-046	296-401A-105	NEW-P	98-07-097	308-93-071	PREP	98-03-026
296-155-48511	REP	98-05-046	296-401A-110	NEW-P	98-07-097	308-93-073	PREP	98-03-026
296-155-48512	REP	98-05-046	296-401A-120	NEW-P	98-07-097	308-93-074	PREP	98-03-026
296-155-48513	REP	98-05-046	296-401A-130	NEW-P	98-07-097	308-93-075	PREP	98-03-026
296-155-48514	REP	98-05-046	296-401A-140	NEW-P	98-07-097	308-93-078	PREP	98-03-026
296-155-48515	REP	98-05-046	296-401A-150	NEW-P	98-07-097	308-93-079	PREP	98-03-026
296-155-48516	REP	98-05-046	296-401A-160	NEW-P	98-07-097	308-93-080	PREP	98-03-026
296-155-48517	REP	98-05-046	296-401A-200	NEW-P	98-07-097	308-93-085	PREP	98-03-026
296-155-48518	REP	98-05-046	296-401A-210	NEW-P	98-07-097	308-93-110	PREP	98-03-027
296-155-48519	REP	98-05-046	296-401A-220	NEW-P	98-07-097	308-93-120	PREP	98-03-027
296-155-48523	REP	98-05-046	296-401A-230	NEW-P	98-07-097	308-93-180	PREP	98-03-027
296-155-48525	REP	98-05-046	296-401A-300	NEW-P	98-07-097	308-93-190	PREP	98-03-027
296-155-48527	REP	98-05-046	296-401A-310	NEW-P	98-07-097	308-93-200	PREP	98-03-027
296-155-48529	REP	98-05-046	296-401A-320	NEW-P	98-07-097	308-93-210	PREP	98-03-027
296-155-48531	REP	98-05-046	296-401A-400	NEW-P	98-07-097	308-93-215	PREP	98-03-027
296-155-48533	REP	98-05-046	296-401A-410	NEW-P	98-07-097	308-93-220	PREP	98-03-027
296-155-48536	REP	98-05-046	296-401A-420	NEW-P	98-07-097	308-93-230	PREP	98-03-027
296-155-487	NEW	98-05-046	296-401A-430	NEW-P	98-07-097	308-93-241	PREP	98-03-025
296-155-488	NEW	98-05-046	296-401A-500	NEW-P	98-07-097	308-93-242	PREP	98-03-025
296-155-489	NEW	98-05-046	296-401A-510	NEW-P	98-07-097	308-93-243	PREP	98-03-025
296-155-490	NEW	98-05-046	296-401A-520	NEW-P	98-07-097	308-93-244	PREP	98-03-025
296-155-493	NEW	98-05-046	296-401A-524	NEW-P	98-07-097	308-93-245	PREP	98-03-025
296-155-494	NEW	98-05-046	296-401A-530	NEW-P	98-07-097	308-93-285	PREP	98-03-026
296-155-496	NEW	98-05-046	296-401A-540	NEW-P	98-07-097	308-93-290	PREP	98-03-027
296-155-497	NEW	98-05-046	296-401A-545	NEW-P	98-07-097	308-93-295	PREP	98-03-027
296-155-498	NEW	98-05-046	296-401A-550	NEW-P	98-07-097	308-93-300	PREP	98-03-026
296-155-528	NEW	98-05-046	296-401A-600	NEW-P	98-07-097	308-93-330	PREP	98-03-026
296-155-605	AMD	98-05-046	296-401A-610	NEW-P	98-07-097	308-93-350	PREP	98-03-026
296-155-615	AMD	98-05-046	296-401A-620	NEW-P	98-07-097	308-93-360	PREP	98-03-026
296-155-683	AMD	98-05-046	296-401A-630	NEW-P	98-07-097	308-93-420	PREP	98-03-026
296-155-688	AMD	98-05-046	296-401A-700	NEW-P	98-07-097	308-93-430	REP-P	98-05-068
296-155-689	AMD	98-05-046	296-401A-800	NEW-P	98-07-097	308-93-430	REP	98-09-023
296-155-700	AMD	98-05-046	296-401A-810	NEW-P	98-07-097	308-93-440	AMD-P	98-05-068
296-155-730	AMD	98-05-046	296-401A-900	NEW-P	98-07-097	308-93-440	AMD	98-09-023
296-200A-900	NEW-P	98-07-096	296-401A-910	NEW-P	98-07-097	308-93-450	AMD-P	98-05-068
296-307	PREP	98-04-094	296-401A-920	NEW-P	98-07-097	308-93-450	AMD	98-09-023
296-400A	PREP	98-06-043	296-401A-930	NEW-P	98-07-097	308-93-460	AMD-P	98-05-068
296-400A-005	AMD-P	98-09-124	296-401A-935	NEW-P	98-07-097	308-93-460	AMD	98-09-023
296-400A-021	NEW-P	98-09-124	308-04-010	PREP	98-03-023	308-93-470	AMD-P	98-05-068
296-400A-025	NEW-P	98-09-124	308-04-010	AMD-P	98-06-080	308-93-470	AMD	98-09-023
296-400A-026	NEW-P	98-09-124	308-04-010	AMD-W	98-07-018	308-93-480	REP-P	98-05-068
296-400A-027	NEW-P	98-09-124	308-04-020	PREP	98-03-023	308-93-480	REP	98-09-023
296-400A-030	AMD-P	98-09-124	308-04-020	AMD-P	98-06-080	308-93-620	PREP	98-03-026
296-400A-031	AMD-P	98-09-124	308-04-020	AMD-W	98-07-018	308-93-630	PREP	98-03-026
296-400A-035	AMD-P	98-09-124	308-12-025	PREP	98-06-047	308-93-640	PREP	98-03-026
296-400A-045	AMD-P	98-07-096	308-12-326	PREP	98-05-012	308-93-640	AMD-E	98-09-001
296-400A-045	AMD-P	98-09-124	308-12-326	AMD-P	98-09-057	308-94-030	AMD-P	98-04-072
296-400A-030	AMD-P	98-09-124	308-56A-005	PREP	98-03-024	308-94-030	AMD	98-08-070
296-400A-070	AMD-P	98-09-124	308-56A-005	REP-P	98-08-049	308-94-040	REP-P	98-04-072

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308-94-050	AMD-P	98-04-072	314-64-08001	NEW-P	98-02-069	315-36-010	NEW-P	98-04-073
308-94-050	AMD	98-08-070	314-64-08001	NEW	98-08-041	315-36-010	NEW-C	98-08-064
308-94-070	REP-P	98-04-072	315-02-030	AMD-P	98-04-073	315-36-020	NEW-P	98-04-073
308-94-070	REP	98-08-070	315-02-030	AMD	98-08-067	315-36-020	NEW-C	98-08-064
308-94-080	AMD-P	98-04-072	315-02-040	AMD-P	98-04-073	315-36-030	NEW-P	98-04-073
308-94-080	AMD	98-08-070	315-02-040	AMD	98-08-067	315-36-030	NEW-C	98-08-064
308-94-090	REP-P	98-04-072	315-02-060	AMD-P	98-04-073	315-36-040	NEW-P	98-04-073
308-94-090	REP	98-08-070	315-02-060	AMD	98-08-067	315-36-040	NEW-C	98-08-064
308-94-100	AMD-P	98-04-072	315-02-070	AMD-P	98-04-073	315-36-050	NEW-P	98-04-073
308-94-100	AMD	98-08-070	315-02-070	AMD	98-08-067	315-36-050	NEW-C	98-08-064
308-94-110	REP-P	98-04-072	315-02-080	AMD-P	98-04-073	315-36-060	NEW-P	98-04-073
308-94-110	REP	98-08-070	315-02-080	AMD	98-08-067	315-36-060	NEW-C	98-08-064
308-96A-005	PREP	98-03-021	315-02-170	REP-P	98-04-073	315-36-070	NEW-P	98-04-073
308-96A-010	PREP	98-03-021	315-02-170	REP	98-08-067	315-36-070	NEW-C	98-08-064
308-96A-015	PREP	98-03-021	315-02-180	REP-P	98-04-073	315-36-080	NEW-P	98-04-073
308-96A-021	PREP	98-03-021	315-02-180	REP	98-08-067	315-36-080	NEW-C	98-08-064
308-96A-025	PREP	98-03-021	315-02-220	AMD-P	98-04-073	315-36-090	NEW-P	98-04-073
308-96A-026	PREP	98-03-021	315-02-220	AMD	98-08-067	315-36-090	NEW-C	98-08-064
308-96A-035	PREP	98-03-021	315-04-180	AMD-P	98-08-065	315-36-100	NEW-P	98-04-073
308-96A-040	PREP	98-03-021	315-06-123	PREP	98-03-074	315-36-100	NEW-C	98-08-064
308-96A-065	AMD-P	98-04-071	315-06-123	AMD-P	98-09-103	315-36-110	NEW-P	98-04-073
308-96A-065	AMD	98-09-024	315-10	PREP	98-07-089	315-36-110	NEW-C	98-08-064
308-96A-066	AMD-P	98-04-071	315-10	PREP	98-08-066	315-36-120	NEW-P	98-04-073
308-96A-066	AMD	98-09-024	315-10-010	AMD-P	98-04-073	315-36-120	NEW-C	98-08-064
308-96A-067	NEW-P	98-04-071	315-10-010	AMD	98-08-067	315-36-130	NEW-P	98-04-073
308-96A-067	NEW	98-09-024	315-10-020	AMD-P	98-04-073	315-36-130	NEW-C	98-08-064
308-96A-068	NEW-P	98-04-071	315-10-020	AMD	98-08-067	315-36-140	NEW-P	98-04-073
308-96A-068	NEW	98-09-024	315-10-020	AMD	98-08-067	315-36-140	NEW-C	98-08-064
308-96A-070	AMD-P	98-04-071	315-10-023	NEW-P	98-04-073	315-36-150	NEW-P	98-04-073
308-96A-070	AMD	98-09-024	315-10-023	NEW	98-08-067	315-36-150	NEW-C	98-08-064
308-96A-071	AMD-P	98-04-071	315-10-024	NEW-P	98-04-073	317-01-010	REP	98-03-073
308-96A-071	AMD	98-09-024	315-10-024	NEW	98-08-067	317-01-020	REP	98-03-073
308-96A-073	AMD-P	98-04-071	315-10-025	AMD-P	98-04-073	317-01-030	REP	98-03-073
308-96A-073	AMD	98-09-024	315-10-025	AMD	98-08-067	317-02-010	REP	98-03-073
308-96A-074	AMD-P	98-04-071	315-10-030	AMD-P	98-04-073	317-02-020	REP	98-03-073
308-96A-074	AMD	98-09-024	315-10-030	AMD	98-08-067	317-02-030	REP	98-03-073
308-96A-080	PREP	98-03-022	315-11A	PREP	98-08-066	317-02-040	REP	98-03-073
308-96A-085	PREP	98-03-022	315-11A-137	REP-XR	98-07-090	317-02-050	REP	98-03-073
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390-17-205	REP-P	98-09-018	392-139-168	REP-P	98-05-040	392-140-640	AMD	98-08-013
390-17-400	PREP	98-03-072	392-139-168	REP	98-08-096	392-140-656	AMD-P	98-04-036
390-17-405	PREP	98-06-055	392-139-170	REP-P	98-05-040	392-140-656	AMD	98-08-013
390-17-405	AMD-P	98-09-017	392-139-170	REP	98-08-096	392-140-660	AMD-P	98-04-036
391-08	PREP	98-04-049	392-139-172	REP-P	98-05-040	392-140-660	AMD	98-08-013
391-25	PREP	98-04-049	392-139-172	REP	98-08-096	392-140-665	AMD-P	98-04-036
391-35	PREP	98-04-049	392-139-174	REP-P	98-05-040	392-140-665	AMD	98-08-013
391-45	PREP	98-04-049	392-139-174	REP	98-08-096	392-140-675	AMD-P	98-04-036
391-55	PREP	98-04-049	392-139-176	REP-P	98-05-040	392-140-675	AMD	98-08-013
391-95	PREP	98-04-049	392-139-176	REP	98-08-096	392-140-680	AMD-P	98-04-036
392-115-005	AMD	98-05-008	392-139-178	REP-P	98-05-040	392-140-680	AMD	98-08-013
392-115-010	AMD	98-05-008	392-139-178	REP	98-08-096	392-140-685	AMD-P	98-04-036
392-115-015	AMD	98-05-008	392-139-180	REP-P	98-05-040	392-140-685	AMD	98-08-013

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392-140-700	NEW	98-07-061	392-140-816	NEW	98-04-080	434-26-020	DECOD	98-08-010
392-140-701	NEW-P	98-03-067	392-140-818	NEW	98-04-080	434-26-025	DECOD	98-08-010
392-140-701	NEW	98-07-061	392-140-820	NEW	98-04-080	434-26-030	DECOD	98-08-010
392-140-702	NEW-P	98-03-067	392-140-822	NEW	98-04-080	434-26-035	DECOD	98-08-010
392-140-702	NEW	98-07-061	392-140-824	NEW	98-04-080	434-26-040	DECOD	98-08-010
392-140-710	NEW-P	98-03-067	392-140-826	NEW	98-04-080	434-26-045	DECOD	98-08-010
392-140-710	NEW	98-07-061	392-140-828	NEW	98-04-080	434-26-050	DECOD	98-08-010
392-140-711	NEW-P	98-03-067	392-140-830	NEW	98-04-080	434-26-055	DECOD	98-08-010
392-140-711	NEW	98-07-061	392-140-832	NEW	98-04-080	434-26-060	DECOD	98-08-010
392-140-712	NEW-P	98-03-067	392-140-834	NEW	98-04-080	434-26-065	DECOD	98-08-010
392-140-712	NEW	98-07-061	392-140-836	NEW	98-04-080	434-26-900	DECOD	98-08-010
392-140-713	NEW-P	98-03-067	392-141	PREP	98-09-091	434-30-150	AMD	98-03-033
392-140-713	NEW	98-07-061	392-172	PREP	98-05-039	434-30-150	DECOD	98-03-033
392-140-714	NEW-P	98-03-067	392-182-020	AMD	98-04-025	434-32-010	DECOD	98-08-010
392-140-714	NEW	98-07-061	399-10-010	AMD-P	98-07-033	434-57-010	DECOD	98-08-010
392-140-715	NEW-P	98-03-067	399-10-030	AMD-P	98-07-033	434-57-020	DECOD	98-08-010
392-140-715	NEW	98-07-061	399-20-060	AMD-P	98-07-033	434-57-030	DECOD	98-08-010
392-140-716	NEW-P	98-03-067	399-20-070	AMD-P	98-07-033	434-57-040	DECOD	98-08-010
392-140-716	NEW	98-07-061	399-20-100	AMD-P	98-07-033	434-57-050	DECOD	98-08-010
392-140-720	NEW-P	98-03-067	399-20-120	AMD-P	98-07-033	434-57-070	DECOD	98-08-010
392-140-720	NEW	98-07-061	399-30-020	AMD-P	98-07-033	434-57-080	DECOD	98-08-010
392-140-721	NEW-P	98-03-067	399-30-030	AMD-P	98-07-033	434-57-090	DECOD	98-08-010
392-140-721	NEW	98-07-061	399-30-045	AMD-P	98-07-033	434-57-100	DECOD	98-08-010
392-140-722	NEW-P	98-03-067	399-30-060	AMD-P	98-07-033	434-57-120	DECOD	98-08-010
392-140-722	NEW	98-07-061	399-30-065	AMD-P	98-07-033	434-57-130	DECOD	98-08-010
392-140-723	NEW-P	98-03-067	415-108-010	AMD	98-09-059	434-57-150	DECOD	98-08-010
392-140-723	NEW	98-07-061	415-108-0110	NEW	98-09-059	434-60-010	DECOD	98-08-010
392-140-724	NEW-P	98-03-067	415-108-0111	NEW	98-09-059	434-60-020	DECOD	98-08-010
392-140-724	NEW	98-07-061	415-108-441	NEW	98-09-059	434-60-030	DECOD	98-08-010
392-140-725	NEW-P	98-03-067	415-108-443	NEW	98-09-059	434-60-040	DECOD	98-08-010
392-140-725	NEW	98-07-061	415-108-445	NEW	98-09-059	434-60-050	DECOD	98-08-010
392-140-726	NEW-P	98-03-067	415-108-450	REP	98-09-059	434-60-060	DECOD	98-08-010
392-140-726	NEW	98-07-061	415-108-451	NEW	98-09-059	434-60-070	DECOD	98-08-010
392-140-727	NEW-P	98-03-067	415-108-453	NEW	98-09-059	434-60-080	DECOD	98-08-010
392-140-727	NEW	98-07-061	415-108-455	NEW	98-09-059	434-60-090	DECOD	98-08-010
392-140-728	NEW-P	98-03-067	415-108-456	NEW	98-09-059	434-60-100	DECOD	98-08-010
392-140-728	NEW	98-07-061	415-108-457	NEW	98-09-059	434-60-110	DECOD	98-08-010
392-140-730	NEW-P	98-03-067	415-108-458	NEW	98-09-059	434-60-120	DECOD	98-08-010
392-140-730	NEW	98-07-061	415-108-459	NEW	98-09-059	434-60-130	DECOD	98-08-010
392-140-731	NEW-P	98-03-067	415-108-460	REP	98-09-059	434-60-140	DECOD	98-08-010
392-140-731	NEW	98-07-061	415-108-463	NEW	98-09-059	434-60-150	DECOD	98-08-010
392-140-732	NEW-P	98-03-067	415-108-464	NEW	98-09-059	434-60-160	DECOD	98-08-010
392-140-732	NEW	98-07-061	415-108-465	NEW	98-09-059	434-60-170	DECOD	98-08-010
392-140-733	NEW-P	98-03-067	415-108-466	NEW	98-09-059	434-60-180	DECOD	98-08-010
392-140-733	NEW	98-07-061	415-108-467	NEW	98-09-059	434-60-190	DECOD	98-08-010
392-140-735	NEW-P	98-03-067	415-108-468	NEW	98-09-059	434-60-200	DECOD	98-08-010
392-140-735	NEW	98-07-061	415-108-469	NEW	98-09-059	434-60-210	DECOD	98-08-010
392-140-736	NEW-P	98-03-067	415-108-475	NEW	98-09-059	434-60-215	DECOD	98-08-010
392-140-736	NEW	98-07-061	415-108-477	NEW	98-09-059	434-60-220	DECOD	98-08-010
392-140-740	NEW-P	98-03-067	415-108-479	NEW	98-09-059	434-60-230	DECOD	98-08-010
392-140-740	NEW	98-07-061	415-108-482	NEW	98-09-059	434-60-240	DECOD	98-08-010
392-140-741	NEW-P	98-03-067	415-108-483	NEW	98-09-059	434-60-250	DECOD	98-08-010
392-140-741	NEW	98-07-061	415-108-484	NEW	98-09-059	434-60-260	DECOD	98-08-010
392-140-742	NEW-P	98-03-067	415-108-487	NEW	98-09-059	434-60-270	DECOD	98-08-010
392-140-742	NEW	98-07-061	415-108-488	NEW	98-09-059	434-60-280	DECOD	98-08-010
392-140-743	NEW-P	98-03-067	415-108-490	REP	98-09-059	434-60-290	DECOD	98-08-010
392-140-743	NEW	98-07-061	415-108-491	NEW	98-09-059	434-60-300	DECOD	98-08-010
392-140-744	NEW-P	98-03-067	415-112-445	AMD	98-09-059	434-60-310	DECOD	98-08-010
392-140-744	NEW	98-07-061	415-112-4608	AMD	98-09-059	434-60-320	DECOD	98-08-010
392-140-745	NEW-P	98-03-067	415-112-4609	AMD	98-09-059	434-60-330	DECOD	98-08-010
392-140-745	NEW	98-07-061	434-08-010	DECOD	98-08-010	434-60-340	DECOD	98-08-010
392-140-746	NEW-P	98-03-067	434-08-020	DECOD	98-08-010	434-60-350	DECOD	98-08-010
392-140-746	NEW	98-07-061	434-08-030	DECOD	98-08-010	434-69-005	DECOD	98-08-010
392-140-747	NEW-P	98-03-067	434-08-040	DECOD	98-08-010	434-69-010	DECOD	98-08-010
392-140-747	NEW	98-07-061	434-08-050	DECOD	98-08-010	434-69-020	DECOD	98-08-010
392-140-800	NEW	98-04-080	434-08-060	DECOD	98-08-010	434-69-030	DECOD	98-08-010
392-140-802	NEW	98-04-080	434-08-070	DECOD	98-08-010	434-69-040	DECOD	98-08-010
392-140-804	NEW	98-04-080	434-08-080	DECOD	98-08-010	434-69-050	DECOD	98-08-010
392-140-806	NEW	98-04-080	434-08-090	DECOD	98-08-010	434-69-060	DECOD	98-08-010
392-140-808	NEW	98-04-080	434-24-065	DECOD	98-08-010	434-69-070	DECOD	98-08-010
392-140-810	NEW	98-04-080	434-26-005	DECOD	98-08-010	434-69-080	DECOD	98-08-010
392-140-812	NEW	98-04-080	434-26-010	DECOD	98-08-010	434-80-010	DECOD	98-08-010

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434-80-030	DECOD	98-08-010	434-260-100	RECOD	98-08-010	434-369-050	RECOD	98-08-010
434-80-040	DECOD	98-08-010	434-260-110	RECOD	98-08-010	434-369-060	RECOD	98-08-010
434-80-050	DECOD	98-08-010	434-260-120	RECOD	98-08-010	434-369-070	RECOD	98-08-010
434-80-060	DECOD	98-08-010	434-260-130	RECOD	98-08-010	434-369-080	RECOD	98-08-010
434-80-070	DECOD	98-08-010	434-260-140	RECOD	98-08-010	434-380-010	RECOD	98-08-010
434-81-010	DECOD	98-08-010	434-260-150	RECOD	98-08-010	434-380-020	RECOD	98-08-010
434-81-020	DECOD	98-08-010	434-260-160	RECOD	98-08-010	434-380-030	RECOD	98-08-010
434-81-030	DECOD	98-08-010	434-260-170	RECOD	98-08-010	434-380-040	RECOD	98-08-010
434-81-040	DECOD	98-08-010	434-260-180	RECOD	98-08-010	434-380-050	RECOD	98-08-010
434-81-050	DECOD	98-08-010	434-260-190	RECOD	98-08-010	434-380-060	RECOD	98-08-010
434-81-060	DECOD	98-08-010	434-260-200	RECOD	98-08-010	434-380-070	RECOD	98-08-010
434-81-070	DECOD	98-08-010	434-260-210	RECOD	98-08-010	434-381-010	RECOD	98-08-010
434-81-080	DECOD	98-08-010	434-260-215	RECOD	98-08-010	434-381-020	RECOD	98-08-010
434-81-090	DECOD	98-08-010	434-260-220	RECOD	98-08-010	434-381-030	RECOD	98-08-010
434-81-100	DECOD	98-08-010	434-260-230	RECOD	98-08-010	434-381-040	RECOD	98-08-010
434-91-010	DECOD	98-08-010	434-260-240	RECOD	98-08-010	434-381-050	RECOD	98-08-010
434-91-020	DECOD	98-08-010	434-260-250	RECOD	98-08-010	434-381-060	RECOD	98-08-010
434-91-030	DECOD	98-08-010	434-260-260	RECOD	98-08-010	434-381-070	RECOD	98-08-010
434-91-040	DECOD	98-08-010	434-260-270	RECOD	98-08-010	434-381-080	RECOD	98-08-010
434-91-050	DECOD	98-08-010	434-260-280	RECOD	98-08-010	434-381-090	RECOD	98-08-010
434-91-060	DECOD	98-08-010	434-260-290	RECOD	98-08-010	434-381-100	RECOD	98-08-010
434-91-070	DECOD	98-08-010	434-260-300	RECOD	98-08-010	440-26-010	PREP	98-09-093
434-91-080	DECOD	98-08-010	434-260-310	RECOD	98-08-010	440-26-210	PREP	98-09-093
434-91-090	DECOD	98-08-010	434-260-320	RECOD	98-08-010	440-26-215	PREP	98-09-093
434-91-100	DECOD	98-08-010	434-260-330	RECOD	98-08-010	458-12-245	REP-XR	98-08-018
434-91-110	DECOD	98-08-010	434-260-340	RECOD	98-08-010	458-16-050	REP-XR	98-08-018
434-91-120	DECOD	98-08-010	434-260-350	RECOD	98-08-010	458-16-110	PREP	98-07-016
434-91-130	DECOD	98-08-010	434-291-010	RECOD	98-08-010	458-16-111	PREP	98-07-016
434-91-140	DECOD	98-08-010	434-291-020	RECOD	98-08-010	458-16-165	PREP	98-07-016
434-91-150	DECOD	98-08-010	434-291-030	RECOD	98-08-010	458-16-300	PREP	98-07-016
434-91-160	DECOD	98-08-010	434-291-040	RECOD	98-08-010	458-16-310	PREP	98-07-016
434-91-170	DECOD	98-08-010	434-291-050	RECOD	98-08-010	458-20-104	AMD-E	98-02-046
434-208-010	RECOD	98-08-010	434-291-060	RECOD	98-08-010	458-20-183	PREP	98-05-031
434-208-020	RECOD	98-08-010	434-291-070	RECOD	98-08-010	458-20-192	PREP	98-07-066
434-208-030	RECOD	98-08-010	434-291-080	RECOD	98-08-010	458-20-192	PREP	98-09-036
434-208-040	RECOD	98-08-010	434-291-090	RECOD	98-08-010	458-40-660	PREP	98-05-074
434-208-050	RECOD	98-08-010	434-291-100	RECOD	98-08-010	458-50-095	PREP	98-07-015
434-208-060	RECOD	98-08-010	434-291-110	RECOD	98-08-010	460-32A-400	PREP	98-07-101
434-208-070	RECOD	98-08-010	434-291-120	RECOD	98-08-010	460-44A-050	PREP	98-07-102
434-208-080	RECOD	98-08-010	434-291-130	RECOD	98-08-010	460-44A-500	AMD-P	98-08-055
434-208-090	RECOD	98-08-010	434-291-140	RECOD	98-08-010	460-44A-501	AMD-P	98-08-055
434-230-030	AMD	98-03-033	434-291-150	RECOD	98-08-010	460-44A-502	AMD-P	98-08-055
434-230-150	RECOD	98-03-033	434-291-160	RECOD	98-08-010	460-44A-503	AMD-P	98-08-055
434-230-160	AMD	98-03-033	434-291-170	RECOD	98-08-010	460-44A-504	AMD-P	98-08-055
434-236-090	AMD	98-03-033	434-324-035	AMD	98-03-033	460-44A-504	PREP	98-09-003
434-236-170	AMD	98-03-033	434-324-050	AMD	98-03-033	460-44A-506	AMD-P	98-08-055
434-240-190	AMD	98-03-033	434-324-060	AMD	98-03-033	460-44A-508	AMD-P	98-08-055
434-240-230	AMD	98-03-033	434-324-065	RECOD	98-08-010	463-54-070	AMD-W	98-08-092
434-240-235	NEW	98-03-033	434-324-085	AMD	98-03-033	468-38-070	AMD-P	98-06-016
434-240-320	NEW	98-03-033	434-324-095	AMD	98-03-033	468-38-070	AMD	98-09-029
434-253-050	AMD	98-03-033	434-324-105	AMD	98-03-033	468-38-110	PREP	98-06-023
434-253-110	AMD	98-03-033	434-324-120	AMD	98-03-033	468-38-120	AMD-E	98-08-057
434-257-010	RECOD	98-08-010	434-324-130	AMD	98-03-033	468-38-120	PREP	98-08-089
434-257-020	RECOD	98-08-010	434-326-005	RECOD	98-08-010	468-38-160	AMD-E	98-09-090
434-257-030	RECOD	98-08-010	434-326-010	RECOD	98-08-010	468-38-260	PREP	98-04-043
434-257-040	RECOD	98-08-010	434-326-015	RECOD	98-08-010	468-38-260	AMD-E	98-04-045
434-257-050	RECOD	98-08-010	434-326-020	RECOD	98-08-010	468-38-260	AMD-P	98-08-090
434-257-070	RECOD	98-08-010	434-326-025	RECOD	98-08-010	468-51	PREP	98-07-049
434-257-080	RECOD	98-08-010	434-326-030	RECOD	98-08-010	468-52	PREP	98-07-048
434-257-090	RECOD	98-08-010	434-326-035	RECOD	98-08-010	468-54	PREP	98-05-037
434-257-100	RECOD	98-08-010	434-326-040	RECOD	98-08-010	468-82	PREP	98-03-032
434-257-120	RECOD	98-08-010	434-326-045	RECOD	98-08-010	468-82-010	REP-P	98-07-004
434-257-130	RECOD	98-08-010	434-326-050	RECOD	98-08-010	468-82-015	REP-P	98-07-004
434-257-150	RECOD	98-08-010	434-326-055	RECOD	98-08-010	468-82-110	REP-P	98-07-004
434-260-010	RECOD	98-08-010	434-326-060	RECOD	98-08-010	468-82-120	REP-P	98-07-004
434-260-020	RECOD	98-08-010	434-326-065	RECOD	98-08-010	468-82-200	REP-P	98-07-004
434-260-030	RECOD	98-08-010	434-326-900	RECOD	98-08-010	468-84	PREP	98-03-030
434-260-040	RECOD	98-08-010	434-332-010	RECOD	98-08-010	468-84-010	REP-P	98-07-005
434-260-050	RECOD	98-08-010	434-369-005	RECOD	98-08-010	468-84-015	REP-P	98-07-005
434-260-060	RECOD	98-08-010	434-369-010	RECOD	98-08-010	468-84-110	REP-P	98-07-005
434-260-070	RECOD	98-08-010	434-369-020	RECOD	98-08-010	468-84-120	REP-P	98-07-005
434-260-080	RECOD	98-08-010	434-369-030	RECOD	98-08-010	468-84-130	REP-P	98-07-005

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468-84-220	REP-P	98-07-005	516-56-002	REP-P	98-05-048			
468-84-230	REP-P	98-07-005	516-56-010	REP-P	98-05-048			
468-84-240	REP-P	98-07-005	516-56-011	REP-P	98-05-048			
468-84-250	REP-P	98-07-005	516-56-012	REP-P	98-05-048			
468-84-260	REP-P	98-07-005	516-56-020	REP-P	98-05-048			
468-84-300	REP-P	98-07-005	516-56-021	REP-P	98-05-048			
468-84-310	REP-P	98-07-005	516-56-022	REP-P	98-05-048			
468-84-320	REP-P	98-07-005	516-56-023	REP-P	98-05-048			
468-85	PREP	98-03-031	516-56-030	REP-P	98-05-048			
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468-85-015	AMD-P	98-07-006	516-56-050	REP-P	98-05-048			
468-85-110	AMD-P	98-07-006	516-56-060	REP-P	98-05-048			
468-85-120	AMD-P	98-07-006	516-56-070	REP-P	98-05-048			
468-85-130	AMD-P	98-07-006	516-56-080	REP-P	98-05-048			
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468-85-230	AMD-P	98-07-006						
468-85-240	AMD-P	98-07-006						
468-85-250	AMD-P	98-07-006						
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