

August 5, 1998

OLYMPIA, WASHINGTON

ISSUE 98-15



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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

All documents appearing in the Washington State Register are prepared and printed at public expense. There are no restrictions on the republication of official documents appearing in the Washington State Register. All news services are especially encouraged to give wide publicity to all documents printed in the Washington State Register.

CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

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

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

Mary F. Gallagher Dilley
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Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following nine sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Intent that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **EXPEDITED REPEAL**-includes the Preproposal Statement of Inquiry that lists rules being repealed using the expedited repeal process. Expedited repeals are not consistently filed and may not appear in every issue of the register.
- (c) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (d) **EXPEDITED ADOPTION**-includes the full text of rules being changed using the expedited adoption process. Expedited adoptions are not consistently filed and may not appear in every issue of the Register.
- (e) **PERMANENT**-includes the full text of permanently adopted rules.
- (f) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (g) **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.
- (h) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (i) **INDEX**-includes a cumulative index of Register Issues 01 through 24.

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. Each filing is listed under the agency name and then describes the subject matter, type of filing and the WSR number. 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 ¹			Distribution Date	First Agency Hearing Date ³	Expedited Adoption ⁴
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS			
<i>For Inclusion in--</i>	<i>File no later than 12:00 NOON--</i>			<i>Count 20 days from--</i>	<i>For hearing on or after</i>	<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
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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

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

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

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

⁴A 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;

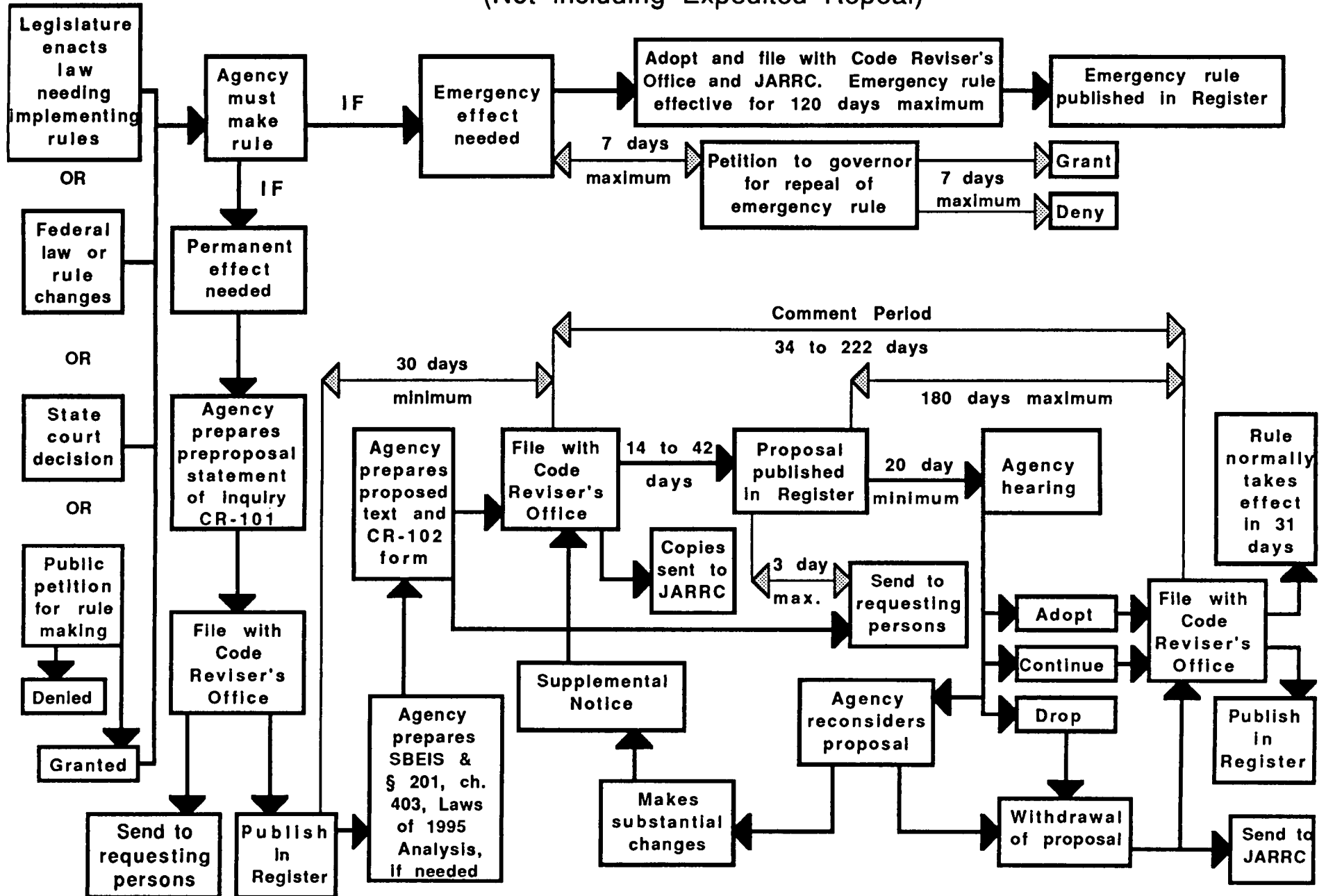
The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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 98-15-004**PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION**

[Filed July 2, 1998, 12:41 p.m.]

Subject of Possible Rule Making: The sale of bingo paper on credit.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule change will allow bona fide charitable/nonprofit organizations to purchase bingo paper on credit.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ben Bishop, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; Carrie Tellefson, Director of Policy, Support and Enforcement, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; or Susan Arland, Public Information Officer, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 374.

Meetings at the Inn at Gig Harbor, 3211 56th N.W., Gig Harbor, WA 98335, (253) 851-6665, on August 13 and 14; and at the DoubleTree Inn, 1507 North First Street, Yakima, WA 98901, (509) 248-7850, on September 10 and 11; and at the Silverdale on the Bay Hotel, 3037 Bucklin Hill Road, Silverdale, WA 98310, (360) 698-1000, on October 8 and 9.

July 2, 1998

Susan Arland

Public Information Officer

WSR 98-15-038**PREPROPOSAL STATEMENT OF INQUIRY
LOTTERY COMMISSION**

[Filed July 8, 1998, 8:39 a.m.]

Subject of Possible Rule Making: Denial, suspension or revocation of a license.

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 315-04-200 to add conviction for any misdemeanor within the past six months as a basis for a denial, suspension or revocation of a retailer's license.

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.

July 7, 1998

Mary Jane Ferguson

Rules Coordinator

WSR 98-15-048**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SERVICES FOR THE BLIND**

[Filed July 9, 1998, 10:53 a.m.]

Subject of Possible Rule Making: Modifying current vocational rehabilitation WACs.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 74.18 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Revisions to existing vocational rehabilitation WACs to make them consistent with recently adopted federal regulations.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Education, Rehabilitation Services Administration, Department of Social and Health Services, Division of Vocational Rehabilitation.

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. Copies of the changes will be mailed and comments encouraged: Diana Koreski, United States Department of Education, 915 2nd Avenue, Room 2848, MC: 10-90-50 S.E., Seattle, WA 98170-1099; Jerry Johnson, Client Assistant Program, 2531 Rainier Avenue South, Seattle, WA 98144; Jeanne Munro, Division of Vocational Rehabilitation, 4408 7th Avenue S.E., P.O. Box 45340, Olympia, WA 98504-5340.

DSB Advisory Council met and approved these changes on June 13, 1998.

Formal hearing to be announced to the Friends of the Department mailing list.

Community meetings held May-June 1998 in Seattle, Olympia, Tacoma, Spokane, Kennewick, and Longview.

July 8, 1998

Bonnie Jindra

Assistant Director

WSR 98-15-067**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed July 13, 1998, 3:45 p.m.]

Subject of Possible Rule Making: Custom farm slaughter, custom slaughtering establishments and custom meat facilities.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 16.49.680.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules covering these operations are contained in four separate sections, chapters 16-20, 16-21, 16-22, and 16-23 WAC. The rules need to be reviewed and updated to meet current operating conditions in the industry. For efficiency and convenience in use we have combined the four rule sections into one rule.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: United States Department of Agriculture (USDA). We share inspection of these facilities and mobile units with the USDA. We will continue to coordinate our inspections to maximize the efficiency of both agencies. We are considering an MOU with USDA to formalize our coordination.

Process for Developing New Rule: We will receive comments from review by our Food Safety Advisory Committee (FSAC). Two meetings, one in Olympia and one in Moses Lake have been set to discuss draft language with the affected industry. Recommendations received from the industry, FSAC and USDA will be reviewed and incorporated into a final draft.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Verne E. Hedlund, 1111 Washington Street, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1860, fax (360) 902-2087.

Meeting: On July 15, 1998, at 9 a.m. to noon, Room 172, Natural Resources Building, 1111 Washington Street, Olympia, WA 98504.

Meeting: On August 5, 1998, at 10 a.m. to noon, Shilo Inn, Moses Lake, Washington.

July 8, 1998

Candace A. Jacobs, DVM
Assistant Director

WSR 98-15-076

PREPROPOSAL STATEMENT OF INQUIRY GAMBLING COMMISSION

[Filed July 15, 1998, 11:35 a.m.]

Subject of Possible Rule Making: Pull-tab games.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule change will increase the merchandise and cash prize payout limits on pull-tab games.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ben Bishop, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; Sherri Winslow, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; or Susan Arland, Public

Information Officer, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 374.

Meetings at the Inn at Gig Harbor, 3211 56th N.W., Gig Harbor, WA 98335, (253) 851-6665, on August 13 and 14; and at the DoubleTree Inn, 1507 North First Street, Yakima, WA 98901, (509) 248-7850, on September 10 and 11; and at the Silverdale on the Bay Hotel, 3037 Bucklin Hill Road, Silverdale, WA 98310, (360) 698-1000, on October 8 and 9.

July 15, 1998

Susan Arland

Public Information Officer

WSR 98-15-077

PREPROPOSAL STATEMENT OF INQUIRY GAMBLING COMMISSION

[Filed July 15, 1998, 11:37 a.m.]

Subject of Possible Rule Making: House banked card room pilot study.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule change will limit the number of house banked card rooms a substantial interest holder can operate during the test period.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ben Bishop, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; Sherri Winslow, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; or Susan Arland, Public Information Officer, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 374.

Meetings at the Inn at Gig Harbor, 3211 56th N.W., Gig Harbor, WA 98335, (253) 851-6665, on August 13 and 14; and at the DoubleTree Inn, 1507 North First Street, Yakima, WA 98901, (509) 248-7850, on September 10 and 11; and at the Silverdale on the Bay Hotel, 3037 Bucklin Hill Road, Silverdale, WA 98310, (360) 698-1000, on October 8 and 9.

July 15, 1998

Susan Arland

Public Information Officer

WSR 98-15-078

PREPROPOSAL STATEMENT OF INQUIRY GAMBLING COMMISSION

[Filed July 15, 1998, 11:39 a.m.]

Subject of Possible Rule Making: Licensing fees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule change will lower licensing fees.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ben Bishop, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; Sherri Winslow, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; or Susan Arland, Public Information Officer, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 374.

Meetings at the Inn at Gig Harbor, 3211 56th N.W., Gig Harbor, WA 98335, (253) 851-6665, on August 13 and 14; and at the DoubleTree Inn, 1507 North First Street, Yakima, WA 98901, (509) 248-7850, on September 10 and 11; and at the Silverdale on the Bay Hotel, 3037 Bucklin Hill Road, Silverdale, WA 98310, (360) 698-1000, on October 8 and 9.

July 15, 1998

Susan Arland

Public Information Officer

WSR 98-15-085

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

[Filed July 16, 1998, 2:55 p.m.]

Subject of Possible Rule Making: Health, safety and administrative (including cost recovery) standards for various state institutions and facilities.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.70.040(1) and 43.70.130(8).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Need to adopt standards for state owned or contracted institutions and facilities regarding (1) sanitation, (2) health care, and (3) to indicate reimbursement rates to the Department of Health for regulatory services provided.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Labor and Industries has responsibilities for health and safety standards limited to protecting employees working in such state institutions and facilities. The Department of Social and Health Services regulates itself regarding nursing, mental health and residential care provided its institutions and facilities. Various state boards and commissions regulate practices of health professionals. All these entities will be asked to participate in providing input to the development of such rules and will be included on the mailing list of interested parties.

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 Bliss Moore, Facilities and Services

Licensing, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 705-6660, fax (360) 705-6654, e-mail BXM0303@hub.wa.doh.gov.

July 14, 1998

Kristine Van Gorkom

Deputy Secretary

WSR 98-15-086

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

(Chemical Dependency Professionals)

[Filed July 16, 1998, 2:57 p.m.]

Subject of Possible Rule Making: The regulation of chemical dependency professionals. This effort includes educational requirements, experience requirements, renewal requirements, and fees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: SSB 6550.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: There is a need to implement the 1998 legislation that protects the title of practice.

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

Process for Developing New Rule: Collaborative rule making. Develop in consultation with stakeholders through public meetings, telephone, and correspondence.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tonya G. Stauffer, Department of Health, Chemical Dependency Professionals, P.O. Box 47869, Olympia, WA 98504-7869, phone (360) 664-3004, fax (360) 753-0739.

July 12, 1998

Kristine Van Gorkom

Deputy Secretary

WSR 98-15-087

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

[Filed July 16, 1998, 2:58 p.m.]

Subject of Possible Rule Making: Designation of a licensing examination for orthotists and prosthetists, and develop procedures for an appeal of an examination failure.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.200.050 (8)(15).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To implement legislation enacted by 1997 legislature concerning examination of candidates, and appeal of examination failures.

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

Process for Developing New Rule: Open public meetings. Review and comment through mail or fax.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Judy Haenke, P.O. Box 47870, Olympia, WA 98504, phone (360) 753-4614, fax (360) 586-0745.

July 12, 1998

Kristine Van Gorkom

Deputy Secretary

WSR 98-15-088

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF HEALTH

(Board of Physical Therapy)

[Filed July 16, 1998, 3:00 p.m.]

Subject of Possible Rule Making: Continuing competency requirements for physical therapists.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.74.023(4).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The legislature has mandated that the Board of Physical Therapy establish and administer requirements for continuing competency as a prerequisite for the renewal of a physical therapy license. Currently, the board requires forty hours of continuing education coursework and two hundred hours of employment every two years as an effective means toward promoting continued competency. This requirement is intended to protect the consumer from incompetent physical therapy care and revisions are being considered to clarify existing requirements and to allow physical therapists more options for maintaining competency.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Office of Superintendent of Public Instruction.

Process for Developing New Rule: The board and program will use collaborative rule making to involve all interested parties in the development of rules pertaining to physical therapy practice. The repeal and/or revision of existing rules, the development of future rules and the dissemination of drafts will be provided to all interested parties for further comment and discussion prior to consideration to adopt by the Board of Physical Therapy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Carol Neva, Program Manager, Board of Physical Therapy, 1300 S.E. Quince Street, P.O. Box 47868, Olympia, WA 98504-7868, phone (360) 753-3132, fax (360) 753-0657.

April 29, 1998

Carol Neva

Program Manager

WSR 98-15-092

PREPROPOSAL STATEMENT OF INQUIRY UTILITIES AND TRANSPORTATION COMMISSION

[Commission Docket No. TO-980905—Filed July 16, 1998, 3:25 p.m.]

Subject of Possible Rule Making: Hazardous Liquid Pipeline Companies — examine the need to adopting recent federal rule amendments by reference, to increase state penalty levels to conform with existing federal levels, and to review the chapter in light of standards set forth in Executive Order No. 97-02 regarding regulatory improvement.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 81.04.160, chapter 123, Laws of 1998; chapter 247, Laws of 1995 and Federal Pipeline Safety Law, 49 U.S.C. § 60101, et seq.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission has been certified by the federal Department of Transportation - Office of Pipeline Safety (OPS) and has assumed responsibility for intrastate hazardous liquids pipeline safety. As a condition of certification, the state is required to adopt safety standards and penalties that are consistent with federal standards and penalties. Pipeline Safety Law, 49 U.S.C. § 60101, et seq. Adoption of recent federal amendments and setting penalties will maintain compliance. In addition, the agency intends to review chapter 480-75 WAC for compliance with standards specified in Executive Order No. 97-02.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Transportation - Office of Pipeline Safety (OPS) is charged by the federal law to regulate hazardous liquids pipeline safety. OPS has certified the commission to assume responsibility for intrastate pipeline transportation. OPS retains responsibility for interstate pipeline safety as authorized by 49 U.S.C. § 60104(c). OPS reviews commission program annually. The rule making is aimed at coordinating the state and federal requirements.

The Washington Department of Ecology and the commission have established a Memorandum of Understanding to delineate the authority and jurisdiction of each agency in regard to intrastate hazardous liquid pipeline facilities. Each agency desires to fulfill the obligations of its mandated responsibilities to the citizens of Washington while minimizing duplicate regulatory oversight. The commission is also working with the Energy Facility Site Evaluation Council to ensure that the agencies' programs complement each other and are not duplicative.

Process for Developing New Rule: Agency study, the commission will provide notice to all regulated hazardous liquid pipeline companies and others whom it knows to be interested in this subject, will invite written comment, and will discuss the proposal with interested persons and, if interest warrants, will establish a workshop or other opportunity for discussion aimed at achieving consensus among interested persons.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA

98504-7250, (360) 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. TO-980905, not later than August 14, 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 [5.1], 6.0 or 6.1, labeled with the docket number of this proceeding, the title of the submission, the commenter's name, and the 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. After reviewing comments and levels of interest, the commission staff will determine whether a workshop would assist in the sharing of information or the discussion of interests. Interested persons may also attend and participate in any such workshop. The commission will provide written notice of any preproposal workshops, and of all future phases of this proceeding, to all commenters and to any other persons specifically asking to receive notice in this rule-making proceeding.

July 14, 1998

Terrence Stapleton
for Carole J. Washburn
Secretary

WSR 98-15-093

PREPROPOSAL STATEMENT OF INQUIRY UTILITIES AND TRANSPORTATION COMMISSION

[Docket No. UT-980675—Filed July 16, 1998, 3:27 p.m.]

Subject of Possible Rule Making: Exploring the need for consumer protections related to "cramming," the unauthorized billing of services on telecommunications bills and "slamming," unauthorized changes in telecommunication services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 80.01.040(4), 80.04.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission received more than seventy complaints about "cramming," or unauthorized billing during the first five months of 1998. This inquiry is intended to determine whether there is a need for commission rules on the subject and if so, what the rules should provide. Possible rules could provide consumer protection from billing for unordered services.

Additionally, unauthorized changes in service, or "slamming," is a major issue at the federal level and it is anticipated the issue will expand at the state level as dialing parity is implemented. The commission will explore whether

increased consumer protections and strengthening of existing rule language is necessary.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Docket and the commission will monitor those provisions and pursue consistency with them unless good reason exists for differences.

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 one or more workshops with representatives of affected constituencies in a matter designed to develop consensus among affected interests regarding any rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, (360) 664-1174, fax (360) 586-1150. Persons may submit comments, as specified below, or may ask to be included in the commission's list of interested persons for the proceeding. The commission will post on its Internet web site at <<http://www.wutc.wa.gov>> all comments that it receives in digital format and a schedule and other information about this rule making.

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-980675, not later than August 14, 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, the date, the commenter's name, and type of software used. Interested persons may also send written comments by electronic mail to <records@wutc.wa.gov>. 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.

July 14, 1998

Terrence Stapleton
for Carole J. Washburn
Secretary

WSR 98-15-102

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Division of Child Support)

[Filed July 17, 1998, 10:50 a.m.]

Subject of Possible Rule Making: RCW 74.20A.350 provides that the Division of Child Support (DCS) may

establish and enforce fines when a person, firm, entity or agency of state or federal government fails to comply with certain DCS withholding notices, liens, inquiries and subpoenas.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.20A.350(14).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Although RCW 74.20A.350 sets forth the requirements for establishing and enforcing fines for noncompliance, DCS feels that adopting rules will more clearly explain to affected parties how they must comply and what procedures will be used by DCS in serving notices of noncompliance and having hearings on those notices.

Process for Developing New Rule: Those persons wishing to participate in developing the new rules are encouraged to contact Nancy Koptur at the Department of Social and Health Services (DSHS) Division of Child Support (DCS) headquarters as soon as possible. DCS will post information regarding this rule development project and others on its web site, which can be found at www.wa.gov/dshs/dcs/cscc.html, or on the DSHS Economic Services Administration's regulatory improvement web site, which can be found at www.wa.gov/dshs/esaregimp. DSHS/DCS encourages the public to take part in developing the rules. After the rules are drafted, DSHS will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and will send a copy to everyone currently on the mailing list and to 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 the DCS Rules Coordinator, Nancy Koptur, Division of Child Support, P.O. Box 9162, Mailstop 45860, Olympia, WA 98507-9162, phone (360) 664-5065, e-mail nkoptur@dshs.wa.gov, fax (360) 664-5055, TTY/TDD (360) 664-5011.

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

WSR 98-15-105

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY**

[Order 98-11—Filed July 17, 1998, 2:30 p.m.]

Subject of Possible Rule Making: Water conservancy boards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 90.80 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To clarify procedures for decision making between ecology and the county boards, and to clarify authority of the boards.

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

Process for Developing New Rule: Pilot rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Peggy Clifford, Water Resources Program, Washington Department of Ecology, P.O. Box 7600, Olympia, WA 98504-7600, (360) 407-7262, fax (360) 407-7262, e-mail pcl461@ecy.wa.gov.

July 16, 1998
Kenneth Slattery
for Keith E. Phillips
Program Manager

WSR 98-15-108

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed July 17, 1998, 4:40 p.m.]

Subject of Possible Rule Making: Self insurance claim processes.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.32.190(6), 51.32.055 (8)(a) and (9)(a).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These rules clarify the claims process according to the workers' compensation statutes for self insured employers and their injured workers.

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

Process for Developing New Rule: An advisory committee with representatives from business, labor, the defense bar and trial lawyers held several meetings to draft a new rule to address SHB 1607, chapter 416, Laws of 1997, and to develop the existing self insurance claim processing rules under Executive Order 97-02 criteria. Drafts will be shared with all stakeholders, and comments will be taken through the normal rule development and public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Joyce Walker, Program Manager, Self Insurance, Department of Labor and Industries, P.O. Box 44890, Olympia, WA 98504-4890, phone (360) 902-6907, fax (360) 902-6900.

July 17, 1998
Gary Moore
Director

WSR 98-15-109

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FINANCIAL INSTITUTIONS**

[Filed July 20, 1998, 9:36 a.m.]

Subject of Possible Rule Making: To amend WAC 460-28A-015 to clarify the advertisement pre-filing requirement for registered offerings of securities.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 21.20.450.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To clarify the time period for filing of sales and advertising literature and promotional material relating to registered offerings of securities. WAC 460-28A-015(1) currently provides that copies must be filed five days before intended use. It is proposed to amend the requirement to provide a five business day standard.

Process for Developing New Rule: Following review of this rule according to Executive Order 97-02, Securities Division staff acknowledged the distinction between calendar days and business days. Subsection (1) of the rule contains an apparent calendar day standard for pre-filing while subsection (2) of the rule specifies a business day standard for the disallowance of filed materials. In the interests of consistency, fairness and clarity it is being proposed to amend subsection (1) to also utilize the business day standard for filing of sales and advertising literature and promotional materials.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Brad Ferber, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, fax (360) 586-5068.

July 17, 1998

John L. Bley

Director

AMENDATORY SECTION (Amending Order 342, filed 9/29/75)

WAC 460-28A-015 All advertisements to be filed. All sales and advertising literature and promotional material, other than that exempted by these rules, shall be governed by the following:

(1) The registration applicant or registrant shall file with the division, at least five business days before its intended dissemination, one copy of each item of literature or material.

(2) If not disallowed by the administrator by written notice or otherwise within three business days from the date filed, the literature or material may be disseminated.

(3) No formal approval of the literature or material shall be issued by the administrator.

(4) The disseminator of the literature or material shall be responsible for the accuracy and reliability of the literature and material, and its conformance with the code and these rules.

WSR 98-15-112
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed July 20, 1998, 1:28 p.m.]

Subject of Possible Rule Making: WAC 388-86-024 Enhanced benefits for pregnant women, describing assessment, counseling, intervention, and referral services for Med-

icaid women during their pregnancy and for up to 60 days after their pregnancy ends.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.770, 74.09.790, and 74.09.800.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Benefits and client's rights of this program are described in this WAC. Supporting Medicaid clients during and immediately after their pregnancies avoids high medical costs associated with low birth weights and other avoidable medical conditions.

The department does not plan to change policy in this revision. This rewrite is to comply with the Governor's Executive Order 97-02, to make the rule: More readable, shorter, include public input, assure fairness to regulated parties, and identify authorizing statutes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Health (DOH) regulates providers of this benefit. An existing interagency agreement ensures continued coordination between DOH and DSHS.

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this WAC. Draft material and information about how to participate are available by contacting the DSHS representative identified below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Allen Richards, Program Assistance and Support Services, Medical Assistance Administration, Olympia, WA 98504-5530, phone (360) 586-1008, fax (360) 753-7315, TTY 1-800- 848-5429, e-mail richaa@dshs.wa.gov.

July 17, 1998

Edith M. Rice, Chief

Office of Legal Affairs

for Marie Myerchin-Redifer, Manager

Rules and Policies Assistance Unit

WSR 98-15-118
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT

[Filed July 21, 1998, 8:51 a.m.]

Subject of Possible Rule Making: General procedures, WAC 365-04-010 to 365-04-050.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.330.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The review of this rule is necessary in order to update the agency's general procedures after agency mergers and eliminate obsolete references in compliance with the Administrative Procedure Act, chapter 34.05 RCW.

Process for Developing New Rule: The Department of Community, Trade and Economic Development will facili-

tate a meeting of interested persons considering all input for inclusion in the revised rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jon Engelman, Regulatory Improvement Coordinator, Department of Community, Trade and Economic Development, P.O. Box 48300, Olympia, WA 88504-8300 [98504-8300], phone (360) 586-2471, fax (360) 586-3582, Internet e-mail address jone@cted.wa.gov.

July 20, 1998
Kathy Kreiter
Deputy Director
for Tim Douglas
Director

WSR 98-15-119

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

[Filed July 21, 1998, 8:53 a.m.]

Subject of Possible Rule Making: Uniform procedural rules, WAC 365-08-010.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.330.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The review of this rule is necessary in order to update the agencies uniform procedural rules after agency mergers and eliminate obsolete references in compliance with the Administrative Procedure Act, chapter 34.05 RCW.

Process for Developing New Rule: The Department of Community, Trade and Economic Development will facilitate a meeting of interested persons considering all input for inclusion in the revised rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jon Engelman, Regulatory Improvement Coordinator, Department of Community, Trade and Economic Development, P.O. Box 48300, Olympia, WA 88504-8300 [98504-8300], phone (360) 586-2471, fax (360) 586-3582, Internet e-mail address jone@cted.wa.gov.

July 20, 1998
Kathy Kreiter
Deputy Director
for Tim Douglas
Director

WSR 98-15-120

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

[Filed July 21, 1998, 8:54 a.m.]

Subject of Possible Rule Making: Public records, WAC 130-10-010 to 130-10-100.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.330.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The review of this rule is necessary in order to update the agency's public disclosure statement after agency mergers and eliminate obsolete references in compliance with the Administrative Procedure Act, chapter 34.05 RCW. A clear public disclosure policy is called for by the Public Records Disclosure Act, RCW 42.17.250 through 42.17.340.

Process for Developing New Rule: The Department of Community, Trade and Economic Development will facilitate a meeting of interested persons considering all input for inclusion in the revised rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jon Engelman, Regulatory Improvement Coordinator, Department of Community, Trade and Economic Development, P.O. Box 48300, Olympia, WA 88504-8300 [98504-8300], phone (360) 586-2471, fax (360) 586-3582, Internet e-mail address jone@cted.wa.gov.

July 20, 1998
Kathy Kreiter
Deputy Director
for Tim Douglas
Director

WSR 98-15-123

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF FINANCIAL INSTITUTIONS

[Filed July 21, 1998, 3:12 p.m.]

Subject of Possible Rule Making: Amend WAC 460-24A-220 relating to unethical business practices of investment advisers to make changes to that section consistent with state and federal law.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 21.20.110, 21.20.450.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: (1) Title III of National Securities Markets Improvement Act of 1996 divided regulation of investment advisers between the United States Securities and Exchange Commission (SEC) and the states. The rule that the agency intends to adopt pertains to regulation of investment advisers who are not otherwise regulated by the SEC and other investment advisers to the extent permitted by NSMIA.

(2) To make uniform rules relating to investment advisers regulated by the states and federally covered investment advisers.

(3) This rule is intended to protect investors who conduct business with state regulated investment advisers.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: United States Securities and Exchange Commission, fifty state securities administrators. The rule was coordinated and adopted by the North American Securities Administra-

tors Association, Inc. and were recently amended to conform with the changes that NSMIA brought about in the securities industry.

Process for Developing New Rule: The rule was coordinated and adopted by the North American Securities Administrators Association, Inc. and adopted with a notice and comment procedure in the industry.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Marlo DeLange, Securities Division, Department of Financial Institutions, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, fax (360) 586-5068, mdelange@dfi.wa.gov, Securities Division Web Site <http://www.wa.gov/dfi/securities>.

July 15, 1998

Deborah R. Bortner

Securities Administrator

Assistant Director

AMENDATORY SECTION [(Amending Order SDO-220-85, filed 11/19/85)]

WAC 460-24A-220 (~~(Dishonest or u)~~)Unethical business practices—Investment advisers and (~~(investment adviser salespersons)~~) federal covered advisers. ~~((The phrase "dishonest or unethical practices" as used in RCW 21.20.110(7) as applied to investment advisers and investment adviser salespersons is hereby defined to include any of the following:))~~ A person who is an investment adviser or a federal covered adviser is a fiduciary and has a duty to act primarily for the benefit of its clients. The provisions of this subsection apply to federal covered advisers to the extent that the conduct alleged is fraudulent, deceptive, or as otherwise permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290). While the extent and nature of this duty varies according to the nature of the relationship between an investment adviser and its clients and the circumstances of each case, an investment adviser or a federal covered adviser shall not engage in unethical business practices, including the following:

(1) Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser.

(2) Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within ten (10) business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both.

(3) Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account ~~((:))~~ in light of the fact that an adviser in such situations can directly benefit from the number of securities transactions effected in a cli-

ent's account. The rule appropriately forbids an excessive number of transaction orders to be induced by an adviser for a "customer's account."

(4) Placing an order to purchase or sell a security for the account of a client without authority to do so.

(5) Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party trading authorization from the client.

(6) Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment adviser, or a financial institution engaged in the business of loaning funds.

(7) Loaning money to a client unless the investment adviser is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment adviser.

(8) To misrepresent to any advisory client, or prospective advisory client, the qualifications of the investment adviser or any employees of the investment adviser, or to misrepresent the nature of the advisory services being offered or fees to be charged for such service, or to omit to state a material fact necessary to make the statements made regarding qualifications, services or fees, in light of the circumstances under which they are made, not misleading.

(9) Providing a report or recommendation to any advisory client prepared by someone other than the adviser without disclosing that fact. (This prohibition does not apply to a situation where the adviser uses published research reports or statistical analyses to render advice or where an adviser orders such a report in the normal course of providing service.)

(10) Charging a client an unreasonable advisory fee ~~((in relation to fees charged by other investment advisers or investment adviser salespersons for similar services))~~.

(11) Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the adviser or any of its employees which could reasonably be expected to impair the rendering of unbiased and objective advice including ~~((but not limited to))~~:

(a) Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; and

(b) Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the adviser or its employees ~~((: and~~

~~((c) An ownership or interest in any entity in which the investment adviser or investment adviser salesperson is recommending that the client purchase (excluding mutual funds))~~)).

(12) Guaranteeing a client that a specific result will be achieved (gain or no loss) with advice which will be rendered.

(13) Publishing, circulating or distributing any advertisement which does not comply with Rule 206 (4)-1 under the Investment Advisers Act of 1940.

(14) Disclosing the identity, affairs, or investments or any client unless required by law to do so, or unless consented to by the client.

(15) Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment adviser has custody or possession of such securities or funds when the adviser's action is subject to and does not comply with the requirements of Reg. 206 (4)-2 under the Investment Advisers Act of 1940.

(16) Entering into, extending or renewing any investment advisory contract unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or nonperformance, whether the contract grants discretionary power to the adviser and that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract.

(17) Failing to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information contrary to the provisions of Section 204A of the Investment Advisers Act of 1940.

(18) Entering into, extending, or renewing any advisory contract contrary to the provisions of section 205 of the Investment Advisers Act of 1940. This provision shall apply to all advisers registered or required to be registered under the Securities Act of Washington, chapter 21.20 RCW, notwithstanding whether such adviser would be exempt from federal registration pursuant to section 203(b) of the Investment Advisers Act of 1940.

(19) To indicate, in an advisory contract, any condition, stipulation, or provisions binding any person to waive compliance with any provision of the Securities Act of Washington, chapter 21.20 RCW, or of the Investment Advisers Act of 1940, or any other practice contrary to the provisions of section 215 of the Investment Advisers Act of 1940.

(20) Engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative in contrary to the provisions of section 206(4) of the Investment Advisers Act of 1940, notwithstanding the fact that such investment adviser is not registered or required to be registered under section 203 of the Investment Advisers Act of 1940.

(21) Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of the Securities Act of Washington, chapter 21.20 RCW, or any rule or regulation thereunder.

The conduct set forth above is not inclusive. ~~((e))~~Engaging in other conduct such as ~~((forgery, embezzlement,))~~ non-disclosure, incomplete disclosure ~~((or misstatement of material facts)), ((or manipulative))~~ or deceptive practices shall ~~((also be grounds for denial, suspension or revocation of registration))~~ be deemed an unethical business practice. The federal statutory and regulatory provisions referenced herein shall apply to investment advisers and federal covered advisers, to the extent permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290).

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 98-15-124
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FINANCIAL INSTITUTIONS

[Filed July 21, 1998, 3:16 p.m.]

Subject of Possible Rule Making: Adopt new section WAC 460-24A-110 relating to agency cross transactions of investment advisers to make regulation of investment advisers uniform among the states.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Section 2, chapter 15, Laws of 1998, RCW 21.20.450.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: (1) Title III of National Securities Markets Improvement Act of 1996 divided regulation of investment advisers between the United States Securities and Exchange Commission (SEC) and the states. The rule that the agency intends to adopt pertains to regulation of investment advisers who are not otherwise regulated by the SEC.

(2) To make uniform rules relating to investment advisers regulated by the states.

(3) This rule is intended to protect investors who conduct business with state regulated investment advisers.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: United States Securities and Exchange Commission, fifty state securities administrators. The rule was coordinated and adopted by the North American Securities Administrators Association, Inc. and were recently amended to conform with the changes that NSMIA brought about in the securities industry.

Process for Developing New Rule: The rule was coordinated and adopted by the North American Securities Administrators Association, Inc. and adopted with a notice and comment procedure in the industry.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Marlo DeLange, Securities Division, Department of Financial Institutions, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, fax (360) 586-5068, mdelange@dfi.wa.gov, Securities Division Web Site <http://www.wa.gov/dfi/securities>.

July 15, 1998

Deborah R. Bortner
Securities Administrator
Assistant Director

NEW SECTION

WAC 460-24A-110 Agency cross transactions. (a) For purposes of this rule, "agency cross transaction for an advisory client" means a transaction in which a person acts as an investment adviser in relation to a transaction in which the investment adviser, or any person controlling, controlled by,

or under common control with such investment adviser, including an investment adviser representative, acts as a broker-dealer for both the advisory client and another person on the other side of the transaction. When acting in such capacity such person is required to be registered as a broker-dealer in this state unless excluded from the definition.

(b) An investment effecting an agency cross transaction for an advisory client shall be in compliance with 1998 Wash. Laws ch. 15, § 2 if the following conditions are met:

(1) The advisory client executes a written consent prospectively authorizing the investment adviser to effect agency cross transactions for such client;

(2) Before obtaining such written consent from the client, the investment adviser makes full written disclosure to the client that, with respect to agency cross transactions, the investment adviser will act as broker-dealer for, receive commissions from and have a potentially conflicting division of loyalties and responsibilities regarding both parties to the transactions;

(3) At or before the completion of each agency cross transaction, the investment adviser or any other person relying on this rule sends the client a written confirmation. The written confirmation shall include (A) a statement of the nature of the transaction, (B) the date the transaction took place (C) an offer to furnish, upon request, the time when the transaction took place and (D) the source and amount of any other remuneration the investment adviser received or will receive in connection with the transaction. In the case of a purchase, if the investment adviser was not participating in a distribution, or, in the case of a sale, if the investment adviser was not participating in a tender offer, the written confirmation may state whether the investment adviser has been receiving or will receive any other remuneration and that the investment adviser will furnish the source and amount of such remuneration to the client upon the client's written request;

(4) At least annually, and with or as part of any written statement or summary of the account from the investment adviser, the investment adviser or any other person relying on this rule sends each client a written disclosure statement identifying (A) the total number of agency cross transactions during the period for the client since the date of the last such statement or summary and (B) the total amount of all commissions or other remuneration the investment adviser received or will receive in connection with agency cross transactions for the client during the period;

(5) Each written disclosure and confirmation required by this rule must include a conspicuous statement that the client may revoke the written consent required under subsection (b)(1) of this rule at any time by providing written notice to the investment adviser;

(6) No agency cross transaction may be effected in which the same investment adviser recommended the transaction to both any seller and any purchaser.

(c) Nothing in this rule shall be construed to relieve an investment adviser or investment adviser representative from acting in the best interest of the client, including fulfilling his duty with respect to the best price and execution for the particular transaction for the client nor shall it relieve any investment adviser or investment adviser representative of any

other disclosure obligations imposed by the Securities Act of Washington, chapter 21.20 RCW, and the rules and regulations thereunder.

WSR 98-15-125

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF

FINANCIAL INSTITUTIONS

[Filed July 21, 1998, 3:19 p.m.]

Subject of Possible Rule Making: Disclosure of information by investment advisors.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Section 9, chapter 15, Laws of 1998.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule is needed to maintain uniformity with other state regulatory agencies and to fill the gap created when the United States Securities and Exchange Commission amended its rules making them inapplicable to some investment advisors.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: This subject is regulated by other states. Adopting this rule will create uniformity with these agencies.

Process for Developing New Rule: This rule was developed through a national notice-comment process by the North American Securities Administrators Associations, Inc. (NASAA).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Steven Raney, P.O. Box 9033, Olympia, WA 98507-9033, voice (360) 902-8739, fax (360) 586-5068.

July 15, 1998

Deborah Bortner
Assistant Director

[NEW SECTION]

WAC 460-24A-145 Investment adviser brochure rule. (1) General Requirements. Unless otherwise provided in this rule, an investment adviser, registered or required to be registered pursuant to **RCW 21.20.040** shall, in accordance with the provisions of this section, furnish each advisory client and prospective advisory client with a written disclosure statement which may be a copy of Part II of its Form ADV, or written documents containing at least the information then so required by Part II of Form ADV, or such other information as the administrator may require.

(2) Delivery. (a) An investment adviser, except as provided in subparagraph (b) of this paragraph, shall deliver the statement required by this section to an advisory client or prospective advisory client (i) not less than 48 hours prior to entering into any investment advisory contract with such client or prospective client, or (ii) at the time of entering into any such contract, if the advisory client has a right to terminate the contract without penalty within five business days after entering into the contract.

(b) delivery of the statement required by subparagraph (a) need not be made in connection with entering into (i) an

investment company contract or (ii) a contract for impersonal advisory services.

(3) Offer to Deliver. (a) An investment adviser, except as provided in subdivision (b), annually shall, without charge, deliver or offer in writing to deliver upon written request to each of its advisory clients the statement required by this section.

(b) The delivery or offer required by subparagraph (a) need not be made to advisory clients receiving advisory services solely pursuant to (i) an investment company contract or (ii) a contract for impersonal advisory services requiring a payment of less than \$200.00.

(c) With respect to an advisory client entering into a contract or receiving advisory services pursuant to a contract for impersonal advisory services which requires a payment of \$200.00 or more, an offer of the type specified in subparagraph (a) shall also be made at the time of entering into an advisory contract.

(d) Any statement requested in writing by an advisory client pursuant to an offer required by this subsection must be mailed or delivered within seven days of the receipt of the request.

(4) Omission of Inapplicable Information. If an investment adviser renders substantially different types of investment advisory services to different advisory clients, any information required by Part II of Form ADV may be omitted from the statement furnished to an advisory client or prospective advisory client if such information is applicable only to a type of investment advisory service or fee which is not rendered or charged, or proposed to be rendered or charged, to that client or prospective client.

(5) Other Disclosures. Nothing in this rule shall relieve any investment adviser from any obligation pursuant to any provision of **Chapter 21.20 RCW** or the rules and regulations thereunder or other federal or state law to disclose any information to its advisory clients or prospective advisory clients not specifically required by this rule.

(6) Definitions. For the purpose of this rule: (a) "contract for impersonal advisory services" means any contract relating solely to the provision of investment advisory services (i) by means of written material or oral statements which do not purport to meet the objectives or needs of specific individuals or accounts; (ii) through the issuance of statistical information containing no expression of opinion as to the investment merits of a particular security; or (iii) any combination of the foregoing services.

(b) "entering into," in reference to an investment advisory contract, does not include an extension or renewal without material change of any such contract which is in effect immediately prior to such extension or renewal.

(c) "investment company contract" means a contract with an investment company registered under the Investment Company Act of 1940 which meets the requirements of Section 15(c) of that Act.

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

WSR 98-15-126

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed July 21, 1998, 3:25 p.m.]

Subject of Possible Rule Making: WAC 458-20-211 Leases or rentals of tangible personal property, bailments.

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: The Department of Revenue has received a request to amend WAC 458-20-211. The request objects to an example in WAC 458-20-211, as revised in 1996, which characterizes the activity of concrete pumping as the rental of equipment with operator. The rental of equipment with operator is a retail sale and subject to sales tax. The petitioner suggests that concrete pumping should be treated as a construction activity. Concrete pumpers are often subcontractors who would then be able to accept resale certificates to avoid sales tax collection responsibilities. The department has agreed to initiate rule making in response to the request. The department solicits comments on what changes, if any, should be made, and why.

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

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 August 31, 1998. After that date, the department will evaluate the comments and may prepare a draft revision of the rule. Any draft revision will be circulated to interested parties.

Written comments may be submitted by mail, fax, or e-mail to Greg Potegal, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 753-1971, fax (360) 664-0693, e-mail gregp@dor.wa.gov.

To inquire about the availability of this information in an alternate format for the visually impaired or a language other than English, please call the multilingual coordinator at (360) 753-3217.

Russell W. Brubaker
Assistant Director

WSR 98-15-127

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed July 21, 1998, 3:29 p.m.]

Subject of Possible Rule Making: WAC 458-20-228 Returns, remittances, penalties, extensions, interest, stay of collection and 458-20-229 Refunds.

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: Rule making is being considered for Rule 228 to incorporate provisions of chapter 149,

Laws of 1996, chapter 157, Laws of 1997, and chapter 54, Laws of 1998.

Rule 229 needs to be revised to incorporate provisions of chapter 157, Laws of 1997.

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

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 may be submitted by mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary draft of the proposed changes is available upon request. Written comments on and/or requests for copies of the rule may be directed to Alan R. Lynn, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 586-9040, fax (360) 664-0693.

Location and Date of Public Meeting: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on September 3, 1998, at 9:30 p.m.

Assistance for Persons with Disabilities: Contact Arturo Haro by August 18, 1998, TDD 1-800-451-7985, or (360) 586-0721.

To inquire about the availability of this information in an alternate format for the visually impaired or a language other than English, please call the multilingual coordinator at (360) 753-3217.

Russell W. Brubaker
Assistant Director

WSR 98-15-132

PREPROPOSAL STATEMENT OF INQUIRY

BOARD OF INDUSTRIAL INSURANCE APPEALS

[Filed July 22, 1998, 8:55 a.m.]

Subject of Possible Rule Making: WAC 263-12-020.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.52.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule is being amended to clarify the description of those persons who may appear before the board; to change the definition of lay representation before the board; and to clarify action the board will take for violations of ethical conduct by representatives.

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 initiative.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting David E. Threedy, Executive Secretary, (360) 753-9646, fax (360) 586-5611, Threedy@BIIA.wa.gov.

A forum for those interested will be held on August 12, 1998, at 1:30-3:30, Board Main Conference Room, 2430 Chandler Court S.W., Olympia, WA 98504-2401.

July 20, 1998

David E. Threedy
Executive Secretary

WSR 98-15-133

PREPROPOSAL STATEMENT OF INQUIRY

BOARD OF INDUSTRIAL INSURANCE APPEALS

[Filed July 22, 1998, 8:56 a.m.]

Subject of Possible Rule Making: WAC 263-12-175 and 263-12-180.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.52.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Being amended to make housekeeping change.

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 initiated.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting David E. Threedy, Executive Secretary, (360) 753-9646, fax (360) 586-5611, Threedy@BIIA.wa.gov.

A forum for those interested will be held on August 12, 1998, at 1:30-3:30, Board Main Conference Room, 2430 Chandler Court S.W., Olympia, WA 98504-2401.

July 20, 1998

David E. Threedy
Executive Secretary

WSR 98-15-134

PREPROPOSAL STATEMENT OF INQUIRY

BOARD OF INDUSTRIAL INSURANCE APPEALS

[Filed July 22, 1998, 8:57 a.m.]

Subject of Possible Rule Making: WAC 263-12-01501.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.52.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: For clarity, the rule is being amended to add communications with the board; this change does not describe a new process but moves the description of the current process to this location.

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 initiated.

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

lication by contacting David E. Threedy, Executive Secretary, (360) 753-9646, fax (360) 586-5611, Threedy@BIIA.wa.gov.

A forum for those interested will be held on August 12, 1998, at 1:30-3:30, Board Main Conference Room, 2430 Chandler Court S.W., Olympia, WA 98504-42401.

July 20, 1998
David E. Threedy
Executive Secretary

WSR 98-15-135

PREPROPOSAL STATEMENT OF INQUIRY BOARD OF INDUSTRIAL INSURANCE APPEALS

[Filed July 22, 1998, 8:58 a.m.]

Subject of Possible Rule Making: WAC 263-12-010.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.52.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Housekeeping and being amended to update jurisdiction of appeals heard at the board.

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 initiated.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting David E. Threedy, Executive Secretary, (360) 753-9646, fax (360) 586-5611, Threedy@BIIA.wa.gov.

A forum for those interested will be held on August 12, 1998, at 1:30-3:30, Board Main Conference Room, 2430 Chandler Court S.W., Olympia, WA 98504-42401.

July 20, 1998
David E. Threedy
Executive Secretary

WSR 98-15-136

PREPROPOSAL STATEMENT OF INQUIRY BOARD OF INDUSTRIAL INSURANCE APPEALS

[Filed July 22, 1998, 8:59 a.m.]

Subject of Possible Rule Making: WAC 263-12-015.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.52.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: For clarity the rule is being amended to delete communications with board from WAC 263-12-015 and move to WAC 263-12-01501.

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 initiated.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting David E. Threedy, Executive Secretary, (360) 753-9646, fax (360) 586-5611, Threedy@BIIA.wa.gov.

A forum for those interested will be held on August 12, 1998, at 1:30-3:30, Board Main Conference Room, 2430 Chandler Court S.W., Olympia, WA 98504-42401.

July 20, 1998
David E. Threedy
Executive Secretary

WSR 98-15-148

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF FINANCIAL INSTITUTIONS

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

Subject of Possible Rule Making: Amendments to chapter 50-36 WAC, Administration of trust companies—Investments, etc.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.320.010, 43.320.040, 30.04.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 50-36 WAC is based on Reg. 9, which addresses collective investment funds and which was amended by the OCC (national bank regulator) in 1997. The amendments to chapter 50-36 WAC are necessary for consistency.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The OCC and the FDIC (insures bank deposits).

Process for Developing New Rule: Consultation with interested parties.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting G. R. Zachary, Assistant Director, (360) 902-8747, fax (360) 753-6070; or Nanette Villanueva, Program Manager, (360) 902-8729 or (206) 368-4627, fax (360) 753-6070 or (206) 368-4483.

July 21, 1998
John L. Bley
Director

WSR 98-15-149

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF FISH AND WILDLIFE

[Filed July 22, 1998, 10:31 a.m.]

Subject of Possible Rule Making: Personal use licensing rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 75.08.080, 77.12.040, section 41, chapter 191, Laws of 1998.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Personal use licensing was restructured by chapter 191, Laws of 1998. Rules are needed to implement this chapter.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dave Brittell, Assistant Director, Management Services, 600 Capitol Way North, Olympia, WA 98501, (360) 902-2504. Contact by September 22, 1998. Expected proposal filing, September 23, 1998.

July 21, 1998

Evan Jacoby

Rules Coordinator

WSR 98-15-155

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF NATURAL RESOURCES

[Filed July 22, 1998, 11:20 a.m.]

Subject of Possible Rule Making: Aquatic tideland and shoreland exchange rule.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 79.90.457, chapters 79.68, 79.66, 79.08 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The adoption of the rule is required by RCW 79.90.457.

AQUATIC LAND EXCHANGES: In 1971, the legislature adopted the Gissburg amendment prohibiting the sale of state owned aquatic lands to anyone but public entities. In 1995, the legislature enacted RCW 79.90.457 which gives the department authority to exchange state-owned tidelands and shorelands with private and other public landowners if the exchange is in the public interest and will actively contribute to the benefits established in RCW 79.90.455.

The statute requires the Board of Natural Resources to establish criteria for determining when an exchange is in the public interest and actively contributes to those benefits.

The department intends to present the following, subject to public comment, as critical elements of the proposed rule:

- Any aquatic exchange must support long term objectives of RCW 79.90.455, which include: (1) Encouraging direct public use and access; (2) fostering water-dependent uses; (3) ensuring environmental protection; (4) utilizing renewable resources; and (5) generating revenues if consistent with the above.
- Any aquatic parcel coming into state ownership must abut navigable water and must be of equal or greater value than the parcel leaving state ownership. The value of all parcels shall be determined by a qualified independent appraiser and/or economist and must include environmental cost analysis and

environmental cost accounting accomplished through a methodology accepted by the department.

- Any aquatic parcel coming into state ownership must meet one or more of the following conditions:
 - Abut an upland parcel which allows direct public use of and access to the water;
 - Be actively used for water-dependent uses or be capable of such use;
 - Contain or abut a critical and/or an essential habitat identified by the National Marine Fisheries Service, state natural resource management agency(s), and/or state approved watershed natural resource management planning group(s);
 - Contain an area beneficial to sediment transport and/or nearshore habitat function identified by the National Marine Fisheries Service, state natural resource management agency(s), and/or state approved watershed natural resource management planning group(s);
 - Contain or abut a dedicated natural resource restoration or mitigation site;
 - Contain property(ies) on or eligible to be on the National Register of Historic Places;
 - Abut a state or national wildlife refuge;
 - Be actively used or abut a parcel used in commercial renewable resource production (for example, commercial grade shellfish beds);
 - Generate or have the potential to generate higher revenues than the parcel being transferred out of state ownership in a manner consistent with the benefits listed in RCW 79.90.455.

The department shall, after its evaluation, make a recommendation to the board. When making recommendations on eligible land exchanges to the board, the department will consider:

- Current and proposed uses of the exchanged lands and the impact of those uses on navigation, the diversity and health of the local economy and environment (including the production and utilization of renewable resources), the quantity and quality of public access to the water, and the treaty rights of federally recognized tribes;
- The cumulative impacts of other potential exchange requests on water dependent uses, nonrenewable and renewable natural resources, and total aquatic lands acreage managed by the department;
- The manageability of the land (i.e., among other elements, the department will consider whether the exchange would result in greatly increased management costs due to sediments liability issues, lack of upland access, lack of proximity to other state-owned shorelands or tidelands, or other factors).

The department will recommend shorelands and tidelands exchanges to the board for approval only when, in the department's best judgment, the public benefits associated with the exchange outweigh the negative impacts or other diminution in public benefits.

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. If you have comments regarding the establishment of criteria for exchanging tidelands and shorelands that will achieve the benefits listed, please send them to Peggy Dorothy, Department of Natural Resources, P.O. Box 47000, Olympia, WA 98504-7000, fax (360) 902-1775, phone (360) 902-1119 or Lee Stilson, Department of Natural Resources, P.O. Box 47027, Olympia, WA 98504-7027, fax (360) 902-1796, phone (360) 902-1786.

July 22, 1998
Kaleen Cottingham
Deputy Commissioner

WSR 98-15-146**EXPEDITED REPEAL****EMPLOYMENT SECURITY DEPARTMENT**

[Filed July 22, 1998, 10:01 a.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 192-16-024 Definition of a "public agency"—RCW 50.04.320 (4)(c).

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: Juanita Myers, Program Coordinator, UI Policy Unit, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, phone (360) 902-9665, fax (360) 902-9799, e-mail jmyers@esd.wa.gov.

Reason the Expedited Repeal of the Rule is Appropriate: RCW 50.04.320 (4)(c) had stated that settlements received by individuals as a result of the termination of an employment contract with a public agency would be considered remuneration. WAC 192-16-024 was adopted to define the term "public agency." During the 1998 legislative session, ESSB 6421 was passed. It deleted the phrase "public agency," making the statute applicable to all employees. The term "public agency" is not used elsewhere in Title 50 RCW. Therefore, WAC 192-16-024 is no longer needed. Repeal of this rule will have no impact on the regulated community and expedited repeal is appropriate.

July 20, 1998
Carver Gayton
Commissioner

EXPEDITED REPEAL



WSR 98-15-005
PROPOSED RULES
GAMBLING COMMISSION

[Filed July 2, 1998, 12:49 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-10-095 on May 6, 1998.

Title of Rule: Operational procedures for bingo games, awarding and accrual of prizes, WAC 230-20-102, 230-20-125, and 230-20-249.

Purpose: Clarifies methods for the collection of fees. Specifies the accrual method to require that games in which prizes accrue are identified ahead of time on a record maintained on the licensee's premises; requires that money taken out of accrued prizes are only used for actual prizes paid; allows the total accrued prizes balance to reach two times the total amount of prizes available on games in which prizes accrue. Makes an adjustment to the merchandise give-away rule to allow operators to award frequent player points, instead of merchandise, during giveaways.

Statutory Authority for Adoption: RCW 9.46.070.

Summary: Changes will ensure that the accounting for accrued prizes is consistent for all bingo games; allows an operator the ability to award extra frequent player points instead of merchandise gifts on the eight giveaway occasions per year; reduces the paperwork and the time an operator must spend accounting for tickets.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Lacey, (360) 438-7654 ext. 374; Implementation: Ben Bishop, Lacey, (360) 438-7640; and Enforcement: Sherri Winslow, Lacey, (360) 438-7640 ext. 301.

Name of Proponent: Staff, governmental.

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

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

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

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

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

Hearing Location: DoubleTree Inn, 1507 North First Street, Yakima, WA 98901, (509) 248-7850, on September 11, 1998, at 9:30 a.m.

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

Submit Written Comments to: Susan Arland, Mailstop 42400, Olympia, WA 98504-2400, fax (360) 438-8652, by September 1, 1998.

Date of Intended Adoption: September 11, 1998.

July 2, 1998
 Susan Arland
 Public Information Officer

AMENDATORY SECTION (Amending WSR 98-04-024, filed 1/28/98, effective 7/1/98)

WAC 230-20-102 Bingo prizes—Record of winners.

All payments of prizes for bingo games shall be accounted for and documented in a manner that affords independent verification of the amount paid and the fact of distribution to winners: *Provided*, That Class A and B bingo licensees, organizations conducting bingo under the provisions of RCW 9.46.0321, and bingo activities conducted at a qualified agricultural fair are exempt from all portions of this rule if the requirements of WAC 230-08-015 are followed. Payment of all prizes shall be documented using the following procedures:

~~((What are the receipting and recordkeeping requirements for bingo prizes?))~~

(1) A prize receipt shall be completed for each prize awarded at bingo games: *Provided*, That merchandise prizes with a cost or fair market value of fifteen dollars or less may be receipted on a single log sheet as allowed in subsection (4) of this section. The following minimum information shall be recorded for each prize awarded:

(a) The date;

(b) The game number;

(c) The complete name and address of the winner: *Provided*, That an address of the winner is not required if prizes greater than \$300 are paid by check or a combination of cash or check and:

(i) Checks are drawn on the licensee's gambling bank account;

(ii) Checks are made payable only to the winner: *Provided*, That checks for prizes won by players under age eighteen may be made payable to the guardian or immediate family member accompanying the player;

(iii) The game number and prize receipt number are notated on the check;

(iv) Checks used are of a type that provides a duplicate copy. The copies become a part of the daily bingo records and must be maintained as such;

(v) All original checks are returned by the bank to the licensee. Original checks shall be available for inspection upon demand by the commission; and

(vi) Checks drawn on the licensee's gambling account are not cashed or otherwise redeemed by the licensee or on the licensee's premises.

(d) The dollar amount of the prize or the licensee's cost of noncash prizes;

(e) A full description of all noncash prizes;

(f) The check number, if any portion of the prize is paid by check; and

(g) The initials of the bingo worker making the payout and the cashier making the payment.

(2) Prize receipts shall be consecutively issued in an ascending order. Prize receipts bearing a number below the highest number issued during a session shall be voided and retained with the daily records.

(3) The original of each prize receipt shall be given to the winner and a duplicate copy shall be retained by the licensee as a part of its records for a period of not less than three years.

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(4) Merchandise prizes with a cost or fair market value of fifteen dollars or less may be receipted on a merchandise prize receipt log. A separate merchandise prize receipt log shall be maintained for each session used, and retained as a part of the bingo daily records. At a minimum, the following information must be recorded on the log:

- (a) The date and session;
- (b) The game number;
- (c) The complete name of the winner printed;
- (d) The cost of the prize or fair market value of the prize if donated;
- (e) A full description of the prize;
- (f) The initials of the person distributing the prize; and
- (g) The criteria for awarding the prizes.

~~((How must prize receipts be printed?))~~

(5) Prize receipts shall be printed by a commercial printer and meet the following standards:

- (a) Manufactured of two-part, self-duplicating paper that provides for an original and a duplicate copy;
- (b) Imprinted with the name of the licensee and a consecutive ascending number that does not repeat in at least 100,000 occurrences: Provided, That Class E and smaller licensees may utilize receipts that are not imprinted with the licensee's name and which the consecutive number does not repeat in at least 1,000 occurrences; and
- (c) Provide space for the licensee to record the information required by subsection (1) above.

~~((What records must a licensee keep for the acquisition of prize receipts?))~~

(6) All prize receipts purchased or otherwise obtained must be accounted for by the licensee. Prize receipts purchased or otherwise obtained by the licensee shall be documented on a vendor's invoice. This invoice, or a photo-copy thereof, shall be maintained on the premises and available for inspection by commission staff. The following information shall be documented on the purchase invoice:

- (a) Name of the vendor;
- (b) Name of the purchasing organization;
- (c) Date of purchase;
- (d) Number of receipts purchased; and
- (e) The beginning and ending receipt number.

~~((For progressive prize type games, how may increases to the prize pool be accrued and accounted for?))~~

~~(7) ((Increases to the prize pool for progressive prize type games may be accrued and treated as prizes awarded during the current session if the following conditions are met:~~

~~(a)) Licensees may establish an accrued prize fund for any game or set of games that have a progressive prize or offer a jackpot prize if special conditions are met during the game. Contributions to the accrued prize fund shall be treated as prizes awarded during the current session if the following conditions are met:~~

~~(a) Each game or set of games that offers a prize included in the accrued prize fund must be identified by the licensee prior to making contributions for such games;~~

(b) The licensee shall maintain a record, in an approved format, of all such games with at least the following information:

- (i) The name of the game or set of games;
- (ii) The sessions at which the game or set of games is played;
- (iii) The game number(s) at each of the sessions the game or set of games is played;
- (iv) The amount that will be added to the accrued prize fund each time the game or set of games is played;
- (v) A description of how the contribution amount was determined;
- (vi) The maximum accrued prize fund balance that will be reached for all games; and
- (vii) The date of the most recent changes to this record;

~~(c) Prize receipts will be issued only when the prize is actually awarded;~~

~~((b) Full details of accrued prizes outstanding at the end of each calendar quarter, will be furnished on the licensee's activity report;~~

~~(e)) (d) Once an election is made to accrue prizes for a particular game((, all increases to that prize must be accrued)) or set of games, the predetermined contribution amount must be added to the accrued prize fund each time the game or set of games is played, until the accrued prize fund reaches the maximum balance;~~

~~((d) Prizes must be accrued after the completion of each session in which they are increased;))~~

~~(e) Once the maximum is reached, no contributions will be made until the accrued prize fund balance has been decreased for a prize paid;~~

(f) Full details of accrued prizes outstanding at the end of each calendar quarter will be furnished on the licensee's activity report;

(g) A reconciliation of the prize fund shall be made on each "Daily summary - Cash control" record;

~~((f)) (h) The amount of prize accrued shall be deposited in the gambling receipts account per WAC 230-12-020;~~

~~((g)) (i) The balance of the gambling receipts banking account shall not be reduced at any time below the amount of prizes accrued and currently being offered: Provided, That accrued prizes may be transferred to a special bank account, for this purpose, if the balance is maintained at a level equal to or greater than the amount of prizes accrued and currently being offered; ((and~~

~~(h) In the event management elects to discontinue games for which prizes have been accrued, the operator shall amend all activity reports and tax returns previously submitted to reflect the actual prizes awarded.)) (j) At no time shall the total accrued prize balance exceed two times the total amount of prizes available on the games identified in (a) of this subsection; and~~

(k) The accrued prize fund shall not be utilized for any purpose other than accumulating bingo prizes and the balance shall not be reduced except under the following circumstances:

- (i) When prizes are actually awarded;
- (ii) If management elects to discontinue games for which prizes were accrued. In this event, the operator shall amend

all activity reports and tax returns that are affected by the action and which have been filed.

AMENDATORY SECTION (Amending Order 303, filed 11/21/96, effective 12/22/96)

WAC 230-20-125 Discounts and promotional gifts—Authorized—Limits. To increase profits from bingo games and enhance the entertainment aspect of such, licensees may conduct limited promotional activities. The following restrictions and procedures apply to promotional activities conducted as a part of bingo games:

~~((What general restrictions apply to discounts and promotions for bingo?))~~

(1) Licensees may promote bingo games by providing players discounts or gifts of nominal value on up to eight occasions annually under the following conditions:

(a) Licensees may offer players discounts or reductions in the price to play bingo for purposes of evaluating the effectiveness of advertising of bingo games if:

(i) Discounts are only awarded to players that present a coupon that was issued by the licensee for a specific date and session;

(ii) Coupons shall not be available on the licensed premises: Provided, That this section does not prevent the sale of newspapers in which such coupons are printed on the licensed premises;

(iii) Coupons are printed in newspapers or similar media that are normally sold or delivered to an individual's residence;

(iv) The discount does not exceed fifty percent of the minimum cost to play or three dollars, whichever is less;

(v) Any conditions or restrictions of the discount are disclosed in all advertisements offering the discount; and

(vi) Records required by subsection (2) of this section are maintained.

(b) Licensees may award promotional gifts to players if:

(i) Only merchandise gifts with a cost to the licensee of no more than three dollars per gift are awarded;

(ii) The gifts are treated as prizes; and

(iii) A record is completed for each session setting out the criterion for selecting the recipients, the number of gifts, and total cost of the gifts.

~~((What are the general receipting and recordkeeping requirements for discounts and promotional gifts?))~~

(2) Licensees shall use the combination receipting method set forth in WAC 230-20-108 to record discounts awarded by this section. All discounts shall be recorded on the cash register receipt during the sales transaction;

(3) Records must be maintained as a part of the daily bingo records that provide full details of each discount or gift awarded. All discounts must be reconciled to sales and cash on the "Bingo daily record-Cash control" record. Such records must include at least the following details:

(a) Time and date of the activity;

(b) Full description of the activity, including any conditions or restrictions;

(c) A copy of all advertisements for such promotions; and

(d) All coupons or "frequent player" cards redeemed which shall include the name, address, and birth date of customers redeeming such.

~~((What restrictions apply to special recognition "birthday gifts?"))~~

(4) Licensees may provide special recognition gifts to players during the calendar week of their birthday. These gifts are excluded from the eight occasion limitation if the following requirements are met:

(a) Such gifts shall not exceed a value of three dollars;

(b) The recipient's name and date of birth are recorded; and

(c) These gifts are treated as prizes and applicable records are maintained.

~~((What restrictions, and receipting and recordkeeping requirements apply to "frequent player" promotions?))~~

(5) Licensees may promote bingo games by offering incentives to players which are based on the customer participating in games for a specific number of sessions, playing during a session when promotional gifts are awarded to players, as authorized by subsection (1)(b) of this section, or for spending a specific dollar amount to play bingo over a period of time if:

(a) These "frequent player" incentives ~~((shall be))~~ are redeemed only for promotional marketing gifts ~~((, whose cost does not exceed one half of one percent of the dollar amount spent by the player through the licensee's cash register receipting method of sales))~~;

(b) These incentives ~~((shall be))~~ are accumulated in the form of "credits" or "points" that equate to a specified number of dollars spent by the player;

(c) The redemption value of points or credits awarded under this section does not exceed:

(i) One-half of one percent of the total dollar amount spent by a player and recorded through the cash register method of recording bingo sales; or

(ii) Three dollars for each occasion that points or credits are awarded as promotional gifts under authority of subsection (1)(b) of this section;

(d) Such credits or points shall have no cash or partial redemption value;

~~((e))~~ (e) Players shall be informed of any expiration date of points or credits earned;

~~((f))~~ (f) The licensee shall develop a control system to account for points or credits issued, redeemed, or expired. Credits or points shall be controlled by issuing points at the time of cash register receipting method sale and recorded either with a computer-based tracking system or approved manual system. The following conditions apply to accumulation records:

(i) If cards are used, cards shall meet all of the requirements set forth for tickets used for receipting for bingo income in WAC 230-20-104 and the recording of credits on such cards shall be accomplished by means under control of the licensee, such as stamps, punches, employee initials, etc.; and

(ii) Computer-based records used to record points shall be approved by the commission staff.

AMENDATORY SECTION (Amending Order 303, filed 11/21/96, effective 12/22/96)

WAC 230-20-249 Three number speed bingo—Operational procedures—Restrictions. Licensees may play "speed bingo" if the conditions set forth in this section are followed:

(1) For purposes of this section, "three number speed bingo" is defined as a bingo game that:

(a) Is played using a reduced number of balls and special cards with less than twenty-five spaces;

(b) The rate of calling numbers is faster than normal;

(c) The price to play includes an "ante," which is retained by the licensee, and a wager that begins at three units and decreases by one for each number covered on a player's card; and

(d) players compete against all other players for a pool of prizes that varies according to the numbers covered by players during the game;

(2) The following restrictions apply to speed bingo:

(a) The price to play speed bingo, including wagers, shall not exceed two dollars per card, per game;

(b) The price to play shall be the same for each card;

(c) The licensee shall not retain any part of players' wagers and all wagers not covering a called number on a player's card shall be paid to winners. If there is more than one winner, wagers shall be equally split among all winners: Provided, That licensees may develop a scheme for splitting odd numbers of chips between winners; and

(d) Gross gambling receipts for speed bingo shall be only the amount of fees collected from players for tickets to participate and excludes wagers and prizes paid to players.

(3) Speed bingo shall be played as follows:

(a) The game shall be played using thirty numbered balls, with numbers one through seventy-five available for use;

(b) Special cards that have three spaces imprinted with numbers that correspond to the numbers on the balls utilized for play;

(c) ~~Tickets shall be used by players to participate in the game. The following procedures apply to tickets:~~

~~(i) Players shall purchase tickets for play prior to start of any game;~~

~~(ii) Tickets may be valued at any price below two dollars. Provided, That the combined value of the ticket and wagers may not exceed two dollars per card, per game;~~

~~(iii) The licensee may elect to collect fees by charging a set amount for each card for the entire session or an amount per card for each game;~~

(d) The ticket receipting method set forth in WAC 230-20-105 shall be used to receipt for income received to play games. In addition, the following requirements shall be met:

(i) All tickets sold and collected must be canceled by stamping the calendar date on the ticket at the time of sale or permanently defacing the tickets when collected;

(ii) All tickets sold for per session fees shall be accounted for using the combination receipting method set forth in WAC 230-20-108;

~~((iv) All tickets shall be stamped with the calendar date at the time sold to players;~~

~~(v) Different colored tickets shall be used for each session speed bingo is played; and~~

~~((vi)) (iii) Tickets sold and collected from players shall be reconciled to cash for each session((-);~~

~~((d)) (e) Wagers shall be made and prizes paid using wagering chips. Wagers may be valued at any price as long as the total value of wagers and ((tickets)) fees does not exceed two dollars per card, per game. The requirements of WAC 230-40-070 shall be followed for wagering chips and banking services. For licensees charging a flat fee per session to participate, the fee per game shall be determined by dividing the fee per session by the minimum number of games to be played;~~

~~((e)) (f) Each player pays the licensee one ticket for each bingo card played for each game: Provided, That when the licensee charges a per session fee, the player's ticket and cash register receipt must remain visible and on the table at all times during the game;~~

~~((f)) (g) Each player's beginning wager is three chips for each bingo card played during any single game. A player must have three chips for each card being played prior to the beginning of the game;~~

~~((g)) (h) During play of the game, players place a wagering chip on each number on their cards that is matched with called numbers. Once a wagering chip is used to cover a valid number, it is retained by the player and no longer available to be won by the game winner(s). Wagering chips must remain on the number on the card until all losing wagers are collected from players by the licensee. The bingo worker collecting wagers must verify that covered numbers are valid;~~

~~((h)) (i) The first player to cover all three numbers on any card is the winner;~~

~~((i)) (j) After the winning card is verified, all unprotected chips are collected from all players and paid to the winner.~~

(4) The following WAC sections are not applicable to speed bingo:

(a) WAC 230-20-010 (1)(b) requiring all prizes available to be disclosed to players prior to their paying to participate: Provided, That licensees shall disclose the per-card cost to play and the amount of wagers required to play a single card;

(b) WAC 230-20-240(2) requiring that seventy-five balls, numbered one through seventy-five, be used to conduct games;

(c) WAC 230-20-240 (4)(a) requiring bingo cards to have twenty-five spaces;

(d) WAC 230-20-240(5) requiring Class F and above licensees to use disposable or electronically-generated bingo cards;

(e) WAC 230-20-101 regarding the ticket receipting method;

(f) WAC 230-20-246(6) requiring the symbol or number to be displayed to players: Provided, That the symbol or number must be displayed by use of a flashboard required by

PROPOSED

WAC 230-20-240(3) and the flashboard and audio system shall be fully functional; and

(g) WAC 230-08-080(2) and 230-20-102 regarding records for prizes awarded.

WSR 98-15-014
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed July 2, 1998, 1:58 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-09-038.

Title of Rule: Disabled person special parking privileges, chapter 308-96A WAC.

Purpose: 1. Implementation of 2SSB 6190, 1998 legislative session.

2. To meet the criteria set forth in Governor Locke's Executive Order 97-02.

3. To better account for renewals of disabled person parking placards.

Statutory Authority for Adoption: RCW 46.16.381, 46.01.110, 46.16.276.

Summary: Amending WAC 308-96A-306 Definitions—Disabled person special parking privileges; repealing WAC 308-96A-310 Application—Disabled person parking privileges, 308-96A-315 Temporary placards, 308-96A-320 Cardiovascular disease or cardiac condition, 308-96A-325 Loss of disabled person parking placard, plate, 308-96A-330 Application for organization disabled person parking placards, 308-96A-335 Organization special parking privilege placards—Transfer limitations, 308-96A-340 Disabled person parking privileges—Validation term and 308-96A-341 Individual disabled person parking privileges no longer valid; and new sections WAC 308-96A-311 General provisions, 308-96A-312 Temporary disabled person placard, 308-96A-313 Permanent disabled person parking placard/photo ID—Individual, 308-96A-314 Special disabled person license plates—Individual, and 308-96A-316 Permanent placard and special disabled person license plates for organizations.

Reasons Supporting Proposal: Meet criteria supporting Governor Locke's Executive Order 97-02 and implementation of 2SSB 6190, 1998 legislative session.

Name of Agency Personnel Responsible for Drafting: Patrick Zlateff, 1125 Washington Street Southeast, Olympia, (360) 902-3718; Implementation and Enforcement: Evelyn Barker, 1125 Washington Street Southeast, Olympia, (360) 902-3811.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The implementation of 2SSB 6190 to better control the use of disabled person parking privileges. The anticipated effects will be a clarification of the above mentioned requirements.

Proposal Changes the Following Existing Rules: Clarify sections needed and repeal those no longer required.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business eco-

nomonic impact statement is not required pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in an industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The content of the proposed rules are explicitly and specifically dictated by statute.

Hearing Location: Highways-Licenses Building, Conference Room 413, 1125 Washington Street Southeast, Olympia, WA 98507, on August 27, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Pat Zlateff by August 15, 1998, TDD (360) 664-8885, or (360) 902-3718.

Submit Written Comments to: Patrick Zlateff, Rules Coordinator, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, fax (360) 664-0831, by August 15, 1998.

Date of Intended Adoption: October 29, 1998.

July 2, 1998

Nancy S. Kelly, Administrator
Title and Registration Services

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

WAC 308-96A-306 Definitions—Disabled person special parking privileges. For the purposes of determining eligibility for special disabled person parking placards and license plates, the following definitions apply:

(1) (~~"Public transportation authorities" are those entities operating motor vehicles owned or leased by Washington state, or a town, city, county, municipality, or metropolitan or municipal corporation within the state, or United States government agencies or Indian nations used for the primary purpose of transporting persons with disabilities described in RCW 46.16.381. Public transportation authorities may contract with private carriers to perform services entitling the carriers to the special parking privileges.~~

(2) ~~"Private carriers" are those entities contracting with public transportation authorities to transport persons with disabilities described in RCW 46.16.381.~~

(3) ~~"Adult family homes" means a regular family abode licensed under chapter 70.128 RCW.~~

(4) ~~"Licensed physician" means, for the purpose of determining a disability that limits or impairs the ability to walk and meets one of the criteria set forth in RCW 46.16.381, a health care provider licensed, certified, registered, or otherwise authorized by the department of health to provide health care in the ordinary course of business or practice as a profession. Licensed physician includes, but is not limited to, medical doctors, chiropractors, osteopaths, physician's assistants, and nurse practitioners, but does not include those persons licensed in the professions of optometry, fitting and dispensing of hearing aids, dentistry, or dental hygienist.)~~ "Licensed physician" means, for the purpose of determining the disability that limits the ability to walk that meets the criteria set forth in RCW 46.16.381(1), a health care provider licensed by the department of health to provide health care in the ordinary course of business or practice whose ordinary practice includes those areas covered in the statute. Licensed physician includes medical doctors and osteopaths.

For purposes of RCW 46.16.381 (1)(b) and (c), licensed physician also includes chiropractors. Licensed physician does not include persons licensed in the professions of optometry, fitting and dispensing hearing aides, dentistry or dental hygienist.

(2) "Permanent" means a licensed physician has certified that the qualifying disability condition is expected to last at least five years.

(3) "Permit" means the eligibility for the placard, photo ID or special license plate(s).

(4) "Photo ID" means the identification card referred to in RCW 46.16.381(3).

(5) "Private carriers" means those entities contracting with public transportation authorities to transport persons with disabilities described in RCW 46.16.381.

(6) "Privilege" means the right to utilize the benefits associated with the permit.

(7) "Privilege expiration date" means:

(a) The last day of the month specified on a temporary placard; or

(b) Not less than five years from the month and year of issuance of a permanent placard, as specified by the department on the placard.

(8) "Public transportation authorities" means those entities operating motor vehicles owned or leased by Washington state, or a town, city, county, municipality, or metropolitan or municipal corporation within the state, or United States government agencies or Indian nations used for the primary purpose of transporting persons with disabilities described in RCW 46.16.381.

(9) "Signature" means any memorandum, mark, or sign made with intent to authenticate an application for a placard, or the subscription of any person thereto as provided in RCW 9A.04.110(23).

NEW SECTION

WAC 308-96A-311 General provisions. (1) How do I qualify for a disabled person parking privilege?

In order to qualify for a disabled person parking privilege, a licensed physician must certify that you meet one of the requirements listed in RCW 46.16.381(1).

(2) **What types of placards are issued?**

The types of placards you may receive are:

- (a) Temporary for a period of up to six months; or
- (b) Permanent.

(3) **How do I apply for a disabled person's parking privilege?**

To apply for the disabled person's parking privilege, a licensed physician must complete and certify his or her portion of the application. Then, you must complete and sign your portion of the application and submit it to the department as provided in WAC 308-96A-312 (temporary placard), WAC 308-96A-313 (permanent placard) or WAC 308-96A-314 (special license plates).

(4) **How long is the disabled person's parking privilege valid?**

The temporary privilege, as certified by the licensed physician, is valid for up to six months from the date of issuance.

The permanent privilege is valid for five years from the date of issuance by the department for the privilege.

(5) **When is the disabled person's parking privilege no longer valid?**

The disabled person's parking privilege is no longer valid:

- (a) Upon expiration of the privilege;
- (b) Upon death of the disabled person;
- (c) If the disability no longer exists; or
- (d) If the privilege was issued in error.

(6) **What are the penalties for violating the law on disabled person's parking privilege?**

(a) It is a gross misdemeanor with a penalty of up to one year in jail and a fine of five thousand dollars, or both, to provide false information on an application for a disabled parking permit.

(b) It is a traffic infraction with a penalty of two hundred fifty dollars for any unauthorized person to:

(i) Use a disabled person parking placard, special license plates or photo ID card;

(ii) Obtain special license plates, a disabled person parking placard or photo ID card in any manner not established by law.

(c) It is a parking infraction, with a penalty of two hundred fifty dollars for a person to:

(i) Exercise the parking privilege without special license plates or a disabled person parking placard;

(ii) Block the access aisle or ramp located next to a space reserved for physically disabled persons.

(d) The court may impose an additional penalty, which is sufficient to reimburse the local jurisdiction for any costs incurred in removal and storage of the improperly parked vehicle.

NEW SECTION

WAC 308-96A-312 Temporary disabled person parking placard. (1) Where and how may I obtain a temporary disabled person parking placard?

You may obtain a temporary disabled person parking placard by mail or at any vehicle licensing office or driver licensing-licensing services office. You must submit a completed and signed application certified by a licensed physician.

(2) **How long does the temporary disabled person parking placard last?**

The temporary disabled person parking placard may last for up to six months from the date of issuance by the department.

(3) **Can my temporary disabled person parking placard be extended?**

No. If your condition continues beyond the expiration date, you may obtain a new temporary disabled person parking placard by submitting a completed and signed new application certified by a licensed physician.

(4) **What happens if the temporary disabled person parking placard is lost, mutilated, destroyed, or stolen?**

If you wish to replace your temporary disabled person parking placard, complete and sign a statement explaining what happened to the placard. A new temporary disabled

person parking placard will be issued indicating the original expiration date.

(5) When is the temporary disabled person parking placard no longer valid?

The placard is no longer valid:

- (a) Upon expiration of the privilege;
- (b) Upon death of the disabled person;
- (c) If the disability no longer exists;
- (d) If a replacement placard has been issued; or
- (e) If the privilege was issued in error.

(6) What should I do when my temporary placard is no longer valid?

You should destroy it.

(7) If I qualify for a temporary disabled person parking privilege, how is the privilege identified?

You may receive one temporary placard.

NEW SECTION

WAC 308-96A-313 Permanent disabled person parking placard/photo ID—Individual. (1) Where may I obtain a permanent disabled person parking placard(s) and photo ID card?

You may obtain the permanent disabled person parking placards and photo ID card only from drivers licensing services offices.

(2) Why is the photo ID issued?

The photo ID is issued to assist law enforcement in determining that the person who is using the disabled person parking placard is the person to whom the placard was issued.

(3) Must I present the photo ID upon request of law enforcement?

Yes.

(4) What do I need to receive the photo ID card?

You need:

- (a) Completed application; and
- (b) Proof of identity which includes the following:
 - (i) Washington drivers license;
 - (ii) Washington identification card;
 - (iii) Other valid identification document specified by

RCW 46.20.035;

(iv) Affidavit of parent, guardian, or person with power of attorney; or

(v) Affidavit of individual applying for disabled person parking permit.

(5) When does the permanent disabled person parking placard(s) expire?

The permanent disabled person parking placard(s) is issued for not less than five years from the month and year of issuance, and expires on the last day of the month specified on the placard. Example: If a permanent placard is marked to expire in May 2003, it expires on May 31, 2003. The department may issue a placard for a period of longer than five years from the month and year of issuance, but for no more than six years, as may be necessary to stagger the permanent placard renewal workload.

(6) How do I replace a permanent disabled person parking placard that has become lost, mutilated, destroyed, or stolen?

If you wish to replace your permanent disabled person parking placard, complete and sign a statement explaining what happened to the placard and return your existing photo ID card. A new permanent disabled person parking placard and photo ID will be issued indicating the original expiration date.

(7) How do I replace my photo ID that has become lost, mutilated, destroyed or stolen?

In order to replace your photo ID, you must appear in person at a driver licensing services office. You shall complete and sign a statement explaining what happened to the photo ID, and present proof of identity as provided in subsection (4) of this section. A new photo ID will be issued indicating the previously issued placard number(s).

(8) How do I renew my permanent disabled person parking placard(s)?

The department will mail you a renewal notice thirty days prior to expiration. The permanent parking placard is renewed by submitting a completed renewal notice or new application with existing photo ID card or proof of identity as provided in subsection (4) of this section at a driver licensing services office. You will receive new permanent disabled person parking placards and a new photo ID.

(9) When are the permanent disabled person parking placard(s) no longer valid?

The permanent disabled person parking placard is no longer valid:

- (a) Upon expiration of the permanent placard;
- (b) Upon death of the disabled person;
- (c) If the disability no longer exists;
- (d) If the privilege was issued in error; or
- (e) If a replacement permanent parking placard has been issued.

(10) If I qualify for a permanent disabled person parking privilege, how is the privilege identified?

You may receive:

- (a) One placard;
- (b) One set of special license plates;
- (c) One placard and one set of special license plates; or
- (d) Two placards.

(11) How do I obtain a second permanent disabled person parking placard?

You may obtain a second placard upon written request.

NEW SECTION

WAC 308-96A-314 Disabled person special license plates—Individual. (1) Where can I obtain a disabled person special license plate?

Disabled person special license plates are available at vehicle licensing offices only.

(2) How do I obtain disabled person special license plates?

In order to receive disabled person special license plates:

- (a) Your name must be shown on the department's record as being a registered owner of the vehicle; and
- (b) You must submit a completed application certified by a licensed physician or have a disabled person privilege established with the department.

(3) When do the disabled person special license plates expire?

The disabled person special license plate carries the expiration date of your vehicle registration and must be renewed annually. The privilege to use the disabled person special license plate expires five years from the month of issuance of the privilege.

(4) May I have a disabled person placard when I have the disabled person special license plate?

Yes, you may have one disabled person placard in addition to your disabled person special license plates.

(5) When are the disabled person special license plates no longer valid?

The disabled person special license plates are no longer valid when:

- (a) The plates expire;
- (b) The privilege expires;
- (c) Upon death of the disabled person;
- (d) If the disability no longer exists; or
- (e) If the privilege was issued in error.

(6) How do I replace a disabled person's special license plates if they become lost, mutilated, destroyed, or stolen?

You shall complete and sign a statement explaining what happened to the disabled person's special license plates. New special disabled person's license plates will be issued indicating the original expiration date. This voids the previously issued plates.

NEW SECTION

WAC 308-96A-316 Permanent placard and disabled person special license plates for organizations. (1) When can a qualifying organization exercise the privilege?

Only when transporting any person who meets the criteria under RCW 46.16.381(1).

(2) How does an organization qualify for disabled person's special license plates and permanent disabled person's parking placards?

The organization must meet the criteria in RCW 46.16.381(3).

(3) How does a qualifying organization apply for disabled person's special license plates and permanent disabled person's parking placards?

The organization must submit a properly completed disabled person parking privileges organization application to the department with appropriate documentation as indicated on the application.

(4) Where does a qualifying organization obtain disabled person's parking placard(s) or disabled person's special license plates?

A qualifying organization may obtain permanent disabled person's parking placard(s) only from driver licensing-licensing services offices. Disabled person's special license plates may be applied for at any vehicle licensing office.

(5) Is a qualifying organization issued a photo ID?

No. A photo ID may not be issued for an organization.

(6) When does the permanent disabled person's parking placard(s) expire?

The permanent disabled person's parking placard(s) expires five years from the date of issuance to the department.

(7) When do the disabled person special license plates issued to a qualifying organization expire?

The disabled person special license plates reflect the expiration date of the vehicle registration and must be renewed annually.

(8) How does a qualifying organization replace permanent disabled person's parking placards or disabled person's special license plates if they become lost, mutilated, destroyed, or stolen?

The organization shall complete and sign a statement explaining what happened to the placards or disabled person's special license plates. New permanent disabled person's parking placards or disabled person's special license plates will be issued indicating the original expiration date. This voids the previously issued permanent placards or plates.

(9) How does a qualifying organization renew their permanent disabled person's parking placard?

The department will send a disabled person's parking renewal notice to the qualifying organization thirty days prior to expiration. The privilege is renewed by submitting the completed and signed renewal notice to the department. A new application may be submitted in lieu of the renewal notice. Upon receipt of the properly completed and signed renewal notice or application the department will issue new placards.

(10) When are the placard and disabled person special license plates no longer valid?

Placard(s) and disabled person special license plates are no longer valid when:

- (a) The organization no longer qualifies;
- (b) The organization's business license is canceled or expires;
- (c) The placard or disabled person special license plates were issued in error; or
- (d) A replacement has been issued.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-96A-310	Application—Disabled person parking privileges.
WAC 308-96A-315	Temporary placards.
WAC 308-96A-320	Cardiovascular disease or cardiac condition.
WAC 308-96A-325	Loss of disabled person parking placard, plate.
WAC 308-96A-330	Application for organization disabled person parking placards.
WAC 308-96A-335	Organization special parking privilege placards—Transfer, limitations.

PROPOSED

WAC 308-96A-340 Disabled person parking privileges—Validation term.

WSR 98-15-019

PROPOSED RULES

DEPARTMENT OF LICENSING

(Board of Registration for Professional Engineers and Land Surveyors)

[Filed July 6, 1998, 12:22 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-11-025.

Title of Rule: Organization and jurisdiction, chapter 196-04 WAC.

Purpose: To repeal entire chapter.

Statutory Authority for Adoption: RCW 18.43.035.

Summary: This existing chapter contains provisions dealing with the disposition of the licensing of marine surveyors, the qualifications for the board executive officers (registrar and assistant registrar). The provisions for marine surveyor are obsolete and unnecessary. The provisions dealing with the registrar and assistant registrar do not reflect the current preferences of the board from the standpoint of what licensing credential is, or is not, needed for these positions. This proposal is to repeal the entire chapter (containing five sections).

Reasons Supporting Proposal: This repeal will remove provisions that are either obsolete, unnecessary or in conflict with the current and proposed practices of the board. This repeal will not have a fiscal impact upon the Board of Registration, the Department of Licensing or the licensed engineers and land surveyors of the state.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: George A. Twiss, 405 Black Lake Boulevard, Olympia, WA 98502, 586-3361.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal is to repeal chapter 196-04 WAC, that is no longer needed or useful for the business practices of the board. The repeal will have only a positive effect since it will eliminate rules that are obsolete and provide needed flexibility to the board on their recruitment and hiring for its executive staff positions.

Proposal Changes the Following Existing Rules: It will repeal chapter 196-04 WAC. No new chapter or amendments are proposed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This is a rule dealing with internal agency procedures. There is no small business impact.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Department of Licensing, Business and Professions Division, 405 Black Lake Boulevard, Con-

ference Room No. 4, Olympia, WA 98502, on August 25, 1998, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Shanan Gillespie, (360) 586-7568, by August 20, 1998, TDD (360) 586-2788.

Submit Written Comments to: Rick Notestine, Board of Registration, P.O. Box 9649, Olympia, WA 98507-9649.

Date of Intended Adoption: August 25, 1998.

July 6, 1998

George A. Twiss
Executive Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 196-04-010 Marine surveyors.
- WAC 196-04-020 Branch of marine surveyor discontinued.
- WAC 196-04-025 Board of registration for professional engineers and land surveyors—Powers and duties.
- WAC 196-04-030 Chief executive of the board of registration for professional engineers and land surveyors—Duties, qualifications.
- WAC 196-04-040 Assistant registrar for board of registration for professional engineers and land surveyors—Duties, qualifications.

WSR 98-15-023

PROPOSED RULES

CLARK COLLEGE

[Filed July 6, 1998, 1:24 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-09-032.

Title of Rule: Chapter 132N-300 WAC, Grievance procedure—Discrimination.

Purpose: To clarify college procedure for processing grievances filed on the basis of discrimination or harassment.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: 29 USC Section 794, 20 USC Sections 1681 et seq., 42 USC Sections 2000e et al.

Summary: This rule clarifies college procedure for processing of informal or formal grievances filed on the basis of discrimination or harassment.

Reasons Supporting Proposal: Required as a condition of receipt of federal financial aid.

PROPOSED

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Donna Kelly, 1800 East McLoughlin Boulevard, (360) 992-2355.

Name of Proponent: Clark College, public.

Rule is necessary because of federal law, 34 C.F.R. 104.7, 34 C.F.R. 106.8, and 34 C.F.R. 110.25.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule states the college's policy on freedom from discrimination and defines harassment as a form of discrimination. The rule describes the grievance procedure, both informal and formal, and the steps for appeal to the college president.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Clark College, Board Room, Baird Administration Building, 1800 East McLoughlin Boulevard, Vancouver, WA, on August 26, 1998, at 4 p.m.

Assistance for Persons with Disabilities: Contact Duane Henry by August 1, 1998, (360) 992-2260.

Submit Written Comments to: Tana L. Hasart, fax (360) 992-2871, by August 1, 1998.

Date of Intended Adoption: August 26, 1998.

June 26, 1998

Tana L. Hasart

Interim President

Chapter 132N-300 WAC

GRIEVANCE PROCEDURE—DISCRIMINATION

NEW SECTION

WAC 132N-300-001 Statement of policy. (1) The college affirms a commitment to freedom from discrimination for all members of the college community. The responsibility for, and the protection of, this commitment extends to students, faculty, administration, staff, contractors, and those who develop or participate in college programs. It encompasses every aspect of employment and every student and community activity. The college expressly prohibits discrimination against any person on the basis of race, sex, creed, religion, color, national origin, age, sexual orientation, marital status, the presence of any physical, sensory or mental disability, or status as a disabled or Vietnam-era veteran. Harassment is a form of discrimination.

(2) Definitions.

(a) Sexual harassment is a form of sex discrimination which involves the inappropriate introduction into the work or learning situation of sexual activities or comments that demean or otherwise diminish one's self worth on the basis of gender. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment under any of the following conditions:

(i) When submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing.

(ii) When submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual.

(iii) When such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, offensive working or educational environment.

Sexual harassment often involves relationships of unequal power and contains elements of coercion—as when compliance with requests for sexual favors becomes a criterion for granting work, study, or grading benefits. However, sexual harassment may also involve relationships among equals, e.g., student to student, as when repeated sexual advances or demeaning verbal behavior have a harmful effect on a person's ability to study or work.

Gender discrimination is the process of making a distinction in favor of, or against, a person or persons on the basis of sex rather than on individual merit. If gender is taken into account when making a decision regarding an employee, except when it is a *bona fide* occupational qualification or is otherwise authorized by law, or if an employee is sexually harassed, that person has been subjected to gender discrimination.

(b) Racial harassment is defined as physical or verbal conduct that is maliciously intended to harass, intimidate, or humiliate a person or persons on account of race, color, or national origin and that causes severe emotional distress, physical injury or damage or destruction to the property of another, or threatens and places a specific person or group of persons in reasonable fear of harm.

(c) Disabilities. People with disabilities are persons with a physical, mental, or sensory impairment which substantially limits one or more major life activities. An individual is disabled if he or she meets at least any one of the following tests:

(i) He or she is substantially impaired with respect to a major life activity; or

(ii) He or she has a record of such an impairment; or

(iii) He or she is regarded as having such an impairment.

(d) Disabled veteran. A person entitled to disability compensation under laws administered by the U.S. Department of Veterans Affairs, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

(e) Vietnam-era veteran. A person who served on active duty for a period of more than one hundred eighty days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released from duty with other than a dishonorable discharge.

NEW SECTION

WAC 132N-300-010 Grievance procedure. (1) Any person who believes she or he has been discriminated against or harassed by Clark College or its employee(s) or agent(s) on the basis of race, sex, creed, religion, color, national origin, age, sexual orientation, marital status, the presence of any physical, sensory or mental disability, or status as a disabled or Vietnam-era veteran, may lodge a formal grievance. The college president delegates investigation of grievances

on the basis of disability or disabled or Vietnam-era veteran status to the ADA Compliance Officer (ADACO). The college president delegates investigation of all other discrimination/harassment grievances to the college's affirmative action officer (AAO).

(a) Complaints should be filed within one hundred eighty days from the most recent incident. Where extraordinary circumstances are shown, the one hundred eighty-day limit may be waived by the ADACO or AAO.

(b) If the individualized education program (IEP) of a student provides for enrollment at Clark College or contracted special education or related services to be provided by the college, the school district which developed the IEP shall remain responsible for insuring that the requirements of Chapter 392-172 WAC and the Individuals with Disabilities Education Act, 20 U.S.C. secs. 1400 *et seq.*, including review and revisions to the IEP, are met.

(2)(a) Step 1: **Informal meeting.** In an attempt to informally resolve the concern, the complainant may request a meeting with the individual believed to have committed the discriminatory act (the respondent) or with the appropriate supervisor or president's designee. The time period in which attempts to informally resolve the concern are made shall not exceed thirty working days from the time the complaint is lodged.

(b) Step 2: **Formal grievance procedure.** The complainant may initiate a formal grievance.

(i) A formal grievance must be filed in writing and must set forth the specific grievance(s) raised by the complainant, including the dates, times, places, and circumstances surrounding his or her complaint. A form for this purpose is available from the ADACO or AAO; however, any written document is acceptable. Formal complaints may not be filed by e-mail.

(ii) Upon receipt of the grievance, the ADACO or AAO will conduct an investigation which includes, but is not limited to, interview(s) with the complainant, the respondent, and any additional persons necessary to determine the merit(s) of the complaint. The investigation should be completed within thirty working days.

(iii) Upon completion of the investigation, the ADACO or AAO will present a written report, including findings and conclusions to the complainant and the respondent. The report may include a recommendation by the ADACO or AAO for appropriate disciplinary or corrective action, or the report may be sent to the designated dean or administrator to determine appropriate disciplinary or corrective action.

(iv) If the complaint is found to be false and malicious, the ADACO or AAO will notify the designated dean or administrator for possible disciplinary action against the complainant.

(c) Step 3: **Presidential appeal.** If the complaint is not resolved at Step 2 the complainant may appeal to the college president.

(i) The appeal must be made in writing within twenty-one days after the report is issued.

(ii) Within twenty days after receiving the appeal, the college president or the president's designee will conduct the presidential review and report the results in writing to both the complainant and the respondent. The college president

may affirm or modify the report, remand the case for further investigation, or dismiss the appeal.

(iii) The written results of the presidential review will be considered final. No further intra-institutional appeal exists.

(3) If desired, inquiries or appeals beyond the institutional level may be directed to:

(a) Equal employment opportunity commission.

(b) Washington state human rights commission.

(c) Regional director, office of civil rights, department of education.

WSR 98-15-035

PROPOSED RULES

PERSONNEL RESOURCES BOARD

[Filed July 8, 1998, 8:10 a.m.]

Original Notice.

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

Title of Rule: Amending WAC 356-05-055 Board, 356-05-210 Law enforcement personnel, 356-05-375 Scheduling plan, 356-05-390 Seniority, 356-05-477 Washington general service, 356-06-003 Scope, 356-06-020 Exemptions, 356-06-040 Classified service, 356-06-050 Exempt service, 356-06-080 Powers—Duties of the board, 356-06-100 Director—Powers—Duties, 356-06-110 Federal preemption—Fair Labor Standards Act, 356-06-120 Americans with Disabilities Act of 1990—Federal and state preemption, 356-07-030 Description and location of departmental organization, 356-07-040 General method of operation, 356-09-040 Affirmative action program—Responsibilities—Department of personnel, 356-10-020 Classification plan—Revision, 356-10-045 Employee appointment status—Lateral reallocation, 356-10-050 Employee appointment status—Upward reallocation, 356-10-060 Allocation—Request for review, 356-14-010 Compensation plan—General provisions, 356-14-026 Salary surveys—Application—Indexing, 356-14-031 Compensation plan—Adoption, 356-14-045 Salaries—Comparable worth, 356-14-070 Salary—Limits, 356-15-020 Work period designations, 356-15-130 Special pay ranges, 356-15-125 Assignment pay provisions, 356-18-050 Sick leave credit—Purpose—Accrual—Conversion, 356-22-180 Examination—Oral examining panel, 356-22-220 Veterans preference in examinations, 356-22-230 Examinations—Noncompetitive, 356-26-030 Register designation, 356-26-040 Registers—Name removal for cause—Grounds enumerated—Requirements, 356-30-143 Intergovernmental mobility, 356-30-260 Probationary period—Provisions—Status of employee, 356-30-320 Trial service—Reversion—Status, 356-34-090 Protests—Requirements for applicants, examinees, and eligibles, 356-34-100 Agency hearings—General provisions, 356-34-260 Appeals—Correction of rating, 356-37-010 Board hearings—Procedure—Record, 356-37-020 Prehearing procedures—Exhibits, 356-37-030 Filing of prehearing statements, 356-37-040 Scheduling of hearings, 356-37-070 Ethical conduct before the board, 356-37-080 Service of process, 356-37-130 Quashing, 356-37-140 Orders for discovery, 356-37-150 Proof of charges, 356-37-160 Prehearing conference, 356-39-020 Human resource development—

PROPOSED

State-wide philosophy/definition, 356-39-060 Human resource development planning, 356-39-080 Review of agencies' human resource development reports, 356-42-010 Membership in employee organization, 356-42-020 Determination of bargaining unit, 356-42-055 Arbitration—Grievance—Procedure, 356-42-080 Unfair labor practice, 356-42-082 Filing unfair labor practice charge, 356-42-083 Investigation of and disposition of unfair labor practice charges, 356-42-084 Answer to complaint—Unfair labor practice, 356-42-085 Amendment of complaint or answer—Unfair labor practice, 356-42-086 Hearing—Unfair labor practice, 356-42-088 Hearings and investigation—Unfair labor practice, 356-42-089 Enforcement—Unfair labor practice, 356-42-100 Impasse arbitration, 356-42-105 Requests for arbitration, 356-46-030 Disclosure of political, religious affiliations—Prohibited, 356-46-060 Agencies—Personnel and payroll records, 356-46-125 Drug testing—Limitations—uses, 356-49-010 Inter-system employment—Purpose, 356-49-020 Application of rules, 356-49-030 Eligibility—Definition, 356-49-040 Intersystem movement, 356-56-010 Application of rules, and 356-56-035 Definitions; new WAC 356-05-178 Higher education system or higher education rules, 356-05-198 Institutions of higher education, and 356-05-358 Related boards; and repealing WAC 356-06-060 Personnel board—Composition—Appointment, 356-06-070 Personnel board—Procedure—Quorum, 356-06-090 Director—Appointment—Removal, 356-14-015 Salary and fringe benefit surveys—Requirements, 356-14-021 Salary and fringe benefit survey plans—Intentions—Content, and 356-14-035 Compensation plan submittal—Intentions—Content.

Purpose: See Title of Rule above.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

Summary: These rules are for clarification and are housekeeping in nature.

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.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules are for clarification and are housekeeping in nature.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These rules relate to internal government operations that are not subject to violation by a nongovernmental party. Therefore, pursuant to RCW 34.05.328 [(5)](b)(ii), section 201 does not apply.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on September 10, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by September 3, 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 September 8, 1998.

Date of Intended Adoption: September 10, 1998.

July 1, 1998
Dennis Karras
Secretary

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 98-16 issue of the Register.

WSR 98-15-036

PROPOSED RULES

PERSONNEL RESOURCES BOARD

[Filed July 8, 1998, 8:12 a.m.]

Original Notice.

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

Title of Rule: New WAC 251-01-018 Agency and 251-01-201 Higher education system or higher education rules; amending WAC 251-01-030 Annual performance evaluation, 251-01-045 Board, 251-01-110 Director, 251-01-150 Examinations, 251-01-160 Executive head exemption, 251-01-305 Principal assistant exemption, 251-01-365 Related boards, 251-01-410 System examination, 251-04-030 Scope, 251-04-040 Exemptions, 251-04-050 Powers—Duties of the board, 251-04-060 Director, 251-04-070 Personnel officers, 251-04-160 Federal preemption—Fair Labor Standards Act, 251-04-170 Americans with Disabilities Act of 1990—Federal and state preemption, 251-05-010 Purpose, 251-05-030 Description and location of departmental organization, 251-05-040 Method of operation, 251-05-060 Records—Availability—Copies, 251-05-070 Exemptions—Public records, 251-06-020 Classification plan—Adoption, 251-06-070 Allocation appeal, 251-06-090 Probationary period—Duration, 251-07-100 Temporary appointment records, 251-08-021 Compensation plans—Salary survey, 251-08-051 Compensation plans—Implementation, 251-08-090 Salary—Periodic increment, 251-08-100 Periodic increment date, 251-08-160 Payroll certification, 251-10-030 Layoff, 251-10-035 Layoff—Special employment programs, 251-11-030 Demotion, suspension, reduction, dismissal—Cause for, 251-11-050 Dismissal—Grounds for—Notice, 251-11-090 Withdrawal or amendment of charges—Time limitation, 251-11-120 Probationary period—Rejection, 251-11-130 Trial service reversion, 251-12-073 Appeals from exempt status, 251-12-075 Appeals from alleged violations of higher education personnel law or rules, 251-12-076 Appeals from denial of parental leave requests, 251-12-080 Appeals from demotion, suspension, layoff, reduction in salary, separation, dismissed, 251-12-099 Filing of prehearing statements, 251-12-100 Hearings before the board, 251-12-104 Prehearing proce-

dures—Exhibits, 251-12-105 Scheduling of hearings, 251-12-220 Subpoenas—Quashing, 251-12-230 Discovery—Depositions—Interrogatories, 251-12-232 Prehearing conference, 251-12-260 Restoration of rights, 251-12-500 Relief from effect of board's order, 251-12-600 Remedial action, 251-14-052 Union shop representative election, 251-14-060 Contents of written agreements, 251-14-070 Unfair labor practices—Management—Employee organizations, 251-14-082 Investigation of and disposition of unfair labor practice charges, 251-14-085 Amendment of complaint or answer—Unfair labor practice, 251-14-087 Enforcement—Unfair labor practice, 251-14-130 Arbitration—Grievance—Procedure, 251-17-120 Examinations—Evaluation of, 251-19-060 Trial service period, 251-19-110 Permanent classified employee interinstitutional and intersystem movement, 251-19-120 Appointment—Temporary, 251-19-122 Written notification of temporary appointment, 251-19-140 Apprenticeship programs, 251-19-157 Workers' compensation—Return-to-work—Program, 251-20-010 Employee performance evaluation—Authority, purpose, use, 251-22-040 Holidays, 251-22-060 Vacation leave—Accrual, 251-22-165 Workers' compensation—Leave, 251-23-010 Affirmative action—Authority, 251-23-020 Affirmative action plans—Requirements—Approval, 251-23-030 Affirmative action plans—Monitoring progress—Reporting, 251-24-010 Employee development—Authority, purpose, objective, 251-24-030 Training and development programs—Contents, 251-24-040 Higher education system training, and 251-25-050 State internship program—Application of rules; and repealing WAC 251-01-205 Hearing examiner, 251-04-150 State Environmental Policy Act, 251-08-040 Compensation plans—Submission to governor, 251-12-085 Hearing examiners, 251-12-096 Declaratory orders, 251-12-097 Declaratory orders—Form, 251-12-290 Superior court appeals—Preparation of record—Time limitations—Cost, and 251-12-300 Superior court appeals—Consideration of record.

Purpose: See Title of Rule above.

Statutory Authority for Adoption: Chapter 41.06 RCW.
Statute Being Implemented: RCW 41.06.150.

Summary: These rules are for clarification and are housekeeping in nature.

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.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules are for clarification and are housekeeping in nature.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These rules relate to internal government operations that are not subject to violation by a nongovernmental party. Therefore, pursuant to RCW 34.05.328 [(5)](b)(ii), section 201 does not apply.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on September 10, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by September 3, 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 September 8, 1998.

Date of Intended Adoption: September 10, 1998.

July 1, 1998

Dennis Karras

Secretary

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 98-16 issue of the Register.

WSR 98-15-044

PROPOSED RULES

SOUTHWEST AIR POLLUTION CONTROL AUTHORITY

[Filed July 8, 1998, 12:20 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-12-010.

Title of Rule: SWAPCA 400 - General Regulations for Air Pollution Sources, 400-099 Per Capita Fees, 400-100 Registration Requirements and Operating Permit Fees, and 400-110 New Source Review.

Purpose: These rules establish the fee schedules for the agency. These rules are being revised to document existing fees and increase other fees necessary to maintain the budget of the agency due to reductions in federal grant funds.

Statutory Authority for Adoption: RCW 70.94.141.

Statute Being Implemented: RCW 70.94.141.

Summary: Proposed changes add a new section to document per capita fee assessments and revise fees for the registration and new source review programs.

Reasons Supporting Proposal: Fee increases are necessary to maintain the current budget. No budget increase is proposed. Fee increases are necessary to offset the reduction in federal grant funds.

Name of Agency Personnel Responsible for Drafting and Implementation: Paul Mairose, 1308 N.E. 134th Street, Vancouver, WA, (360) 574-3058 ext. 30; and Enforcement: Robert Elliott, 1308 N.E. 134th Street, Vancouver, WA, (360) 574-3058.

Name of Proponent: Southwest Air Pollution Control Authority, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

PROPOSED

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rule changes document the per capita fee assessment for the agency as provided for under RCW 70.94.093. In addition, the per capita fee is proposed to be increased from approximately twenty-five cents per person to thirty cents per person. Registration fee changes are also proposed to increase from \$100 per emission unit to \$200 per emission unit. New source review fees are proposed to increase by about \$200 for each application source category. These proposed fee increases only offset reductions in federal grant funds. No budget increase is proposed.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of chapter 19.85 RCW. However, a fee impact document has been prepared by SWAPCA explaining the basis for the necessary fee increases.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), section 201, chapter 403, Laws of 1995, do not apply to this rule adoption. SWAPCA is not voluntarily invoking the Laws of 1995.

Hearing Location: Southwest Air Pollution Control Authority Office, 1308 N.E. 134th Street, Vancouver, WA, on September 3, 1998, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Mary Allen by August 28, 1998, TDD (360) 574-3058.

Submit Written Comments to: Paul Mairose, 1308 N.E. 134th Street, Vancouver, WA 98685-2747, fax (360) 576-0925, by August 25, 1998.

Date of Intended Adoption: September 3, 1998.

July 8, 1998

Robert D. Elliott
Executive Director

NEW SECTION

SWAPCA 400-099 Per Capita Fees

[Statutory Authority: Chapter 70.94.093 RCW]

Each component city or town and county shall pay such proportion of the supplemental income to the Authority as determined by either one of two methods as provided under RCW 70.94.093. The first method is based on the assessed valuation of property within such city or town and county limits bears to the total assessed valuation of taxable property within the jurisdiction of SWAPCA. The second method is based on the total population of such city or town and county bears to the total population of the jurisdiction of SWAPCA. In addition, a combination of the two methods is allowable provided that such combination is shared at 50 percent each. The SWAPCA Board of Directors has elected to use the second method based on population (per capita). The "per capita" assessment has been established at 30 cents per person for calendar year 1999 and is to include an ongoing annual adjustment based on the consumer price index. The population shall be determined by the most recent census, estimate or survey by the federal bureau of census or any state board

or commission authorized to make such a census, estimate or survey.

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

AMENDATORY SECTION

SWAPCA 400-100 Registration Requirements and Operating Permit Fees

[Statutory Authority: Chapter 70.94.141 RCW, 70.94.151 RCW, 70.94.162 RCW, 70.94.200 RCW, 70.94.331 RCW, and 70.94.395 RCW. Original Board adoption 10/29/69 (Regulation 2 Sec 3); Amended by Board 12/18/79; Amended by Board 8/18/81; Amended by Board 3/20/84; 92-04-030 filed 1/28/92, effective 2/28/92; 93-21-004 filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

(1) **Applicability.** All sources or emission units that emit contaminants to the ambient air shall be registered with the Authority in accordance with this section as set forth in RCW 70.94.151 except those sources or emission units specifically exempted by SWAPCA 400-100(3) and SWAPCA 400-101.

(2) **General requirements.**

(a) A unique registration number shall be assigned to all sources required to be registered with SWAPCA and a separate registration fee shall be provided for each air contaminant emission unit; provided that, an owner has the option to register a process with a detailed inventory of air contaminant sources and emissions related to the process. A registration fee shall not be collected for exempt emission units identified at SWAPCA 400-101.

~~((b) Each registration submittal shall be certified for truth, accuracy and completeness by the owner or operator.))~~

~~((b(e)))~~ Registration information shall be provided on forms supplied by the Authority and the forms shall be verified by the source and returned to the Authority with payment in full within the time specified by the Authority.

~~((c(d)))~~ Annual registration fees that are unpaid after ~~((July 31))~~ June 30 for the effective year shall be considered to be in default and the source shall be considered to be out of business and in violation of item (d) ~~((above))~~ below for failure to report closure. At the discretion of the Control Officer, all Orders of Approval for existing equipment shall become invalid for this source and the source shall be required to submit a Notice of Construction and applicable fees in accordance with SWAPCA 400-110 prior to resuming operations. Prior to taking actions to 'un-register' a source, the source must be notified by certified letter. The registration program covers the period of July 1 through June 30. Sources or emission units operating less than six months in the current registration period that are terminated, shall not be liable for registration fees. This does not apply to temporary or portable stationary sources.

~~((d(e)))~~ A report of closure or discontinuance shall be filed with the Authority within ninety days after operations producing emissions permanently cease at any source. (Refer to SWAPCA 400-230 for issuance of an Order of Discontinuance.)

(3) **Registration Fees.** Before the Control Officer may register any emission unit, the use of which may emit contaminants to the atmosphere, an annual registration fee of

~~\$(100.00)~~ 200.00 for each emission unit shall be paid. For new stationary sources, registration fees for the first year are included as part of the fees collected for a Notice of Construction application and shall not be considered in addition to those fees.

(a) Exceptions:

(i) An annual registration fee of ~~\$(50.00)~~ 75.00 shall be charged to each gasoline transport tank.

(ii) The registration fee for a small operation may be waived or reduced by the Control Officer provided sufficient demonstration of circumstances is presented, subject to the discretion of the Control Officer.

(iii) Emissions units and activities specifically exempted under SWAPCA 400-101 are not required to comply with the requirements of this section.

(iv) Operating Permit Program sources, as defined in RCW 70.94.030(17) shall pay an operating permit fee in accordance with SWAPCA 400-100(4). Operating Permit Program sources, as defined in RCW 70.94.030(17) are not required to comply with the registration requirements of this section after EPA grants interim or final approval of the SWAPCA Operating Permit Program pursuant to 40 CFR Part 70.

(4) **Operating Permit Fees.** Fee determination and certification for sources subject to 70.94.161 RCW requirements.

(a) **Applicability.** The owner or operator of all sources subject to the requirement to obtain an Operating Permit under 40 CFR 70 or 70.94.161 RCW, shall pay an annual fee, or the equivalent over some other period as approved, subject to the discretion of the Control Officer, sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the Operating Permit Program requirements as specified in this section.

(b) **Pollutants for which fees will be assessed.**

(1) A volatile organic compound.

(2) Each pollutant regulated under Section 7411 or 7412 of the 1990 Federal Clean Air Act Amendments.

(3) Each pollutant for which a national primary ambient air quality standard has been promulgated except that carbon monoxide shall be excluded from this reference. PM_{10} emissions will be utilized for purposes of calculating particulate matter emissions when such data is provided by the 40 CFR Part 70 source. Source test data is required to demonstrate the PM_{10} portion of total particulate matter emissions.

(4) Emissions of each regulated pollutant emitted in excess of 7500 tons from a source shall be excluded from fee assessment.

(c) **Program cost projections.** The Authority shall prepare an Operating Permit Program budget each year based on a projected workload evaluation. Only fee eligible activities as specified in SWAPCA 400-100(f) and Ecology's development and oversight costs, as provided in RCW 70.94.162 shall be considered in the workload analysis. The projected budget shall be submitted to the Authority's Technical Advisory Council, as described in SWAPCA 400-172, for comments. The Technical Advisory Council shall be given an opportunity to provide input regarding the projected budget. The Control Officer shall evaluate all comments and revise the projected budget where deemed appropriate. After con-

sideration of the comments, the Control Officer shall submit the proposed budget to the Board of Directors for approval. The approved budget shall be used in the equations below to determine the Operating Permit Program fees. The Authority shall publish the proposed and approved budgets and workload analysis in the Permit Register.

(d) **Three part fee assessment methodology.** Operating Permit Program fees shall be determined using a three part fee assessment methodology as described below:

(1) **Participation Fee.** Fees sufficient to cover one-third of the Board approved Operating Permit Program budget shall be assessed such that each source shall pay an equal share. The total Operating Permit Program budget shall be divided by three. This amount shall be further divided by the number of 40 CFR Part 70 sources within the Authority's jurisdiction. Participation fees shall be equal in amount for each 40 CFR Part 70 source. The participation portion of the fee shall be assessed according to the following formula:

$PF = B \div 3 \div n$, where:

PF = Participation fee portion of total fee;
B = The total Authority budget for the Operating Permit Program;
n = The number of 40 CFR Part 70 sources.

(2) **Emissions Fee.** Fees sufficient to cover one-third of the budget shall be assessed such that each source shall pay an amount equal to that source's portion of the total annual emissions of the fee applicable pollutants from all 40 CFR Part 70 sources within the Authority's jurisdiction. The total Operating Permit Program budget shall be divided by three. The ratio of each source's annual emissions (in tons) to the total annual emissions of fee applicable pollutants emitted by all 40 CFR Part 70 sources within the Authority's jurisdiction shall be paid by the owner or operator of each source. The emissions portion of the fee shall be assessed according to the following formula:

$EF = B \div 3 * SE \div TE$, where:

EF = Emissions fee portion of total fee;
B = The total Authority budget for the Operating Permit Program;
SE = The sum of annual emissions of fee applicable pollutants in tons per year from the individual 40 CFR Part 70 source;
TE = The sum of annual emissions of fee applicable pollutants in tons per year from all 40 CFR Part 70 sources.

(3) **Complexity Fee.** Fees sufficient to cover one-third of the budget shall be assessed such that each 40 CFR Part 70 source shall pay an amount equal to that source's portion of the total emissions units at all 40 CFR Part 70 sources within the Authority's jurisdiction. The total Operating Permit Program budget shall be divided by three. The ratio of each source's emissions units to the total number of emissions units located at all 40 CFR Part 70 sources within the Authority's jurisdiction shall be paid by the owner or operator of each source. The complexity portion of the fee shall be assessed according to the following formula:

CF = B÷3*SU÷TU, where:

- CF = Complexity fee portion of total fee;
 B = The total Authority budget for the Operating Permit Program;
 SU = The number of emission units at a source;
 TU = The number of emissions units at all 40 CFR Part 70 sources.

(4) **Total Fee.** The amount of the annual assessed fees for each 40 CFR Part 70 source shall be the sum of the participation, emissions and complexity fee portions (PF+EF+CF = Total Fee). The sum of the total fees for all 40 CFR Part 70 sources within the Authority's jurisdiction shall be equal in amount to the Board adopted budget for the Operating Permit Program.

(e) Accountability.

(1) The sum of the fees assessed by the Authority to all sources required to obtain Operating Permits within the Authority's jurisdiction shall not exceed the cost of developing and administering the program. All fees collected from permit program sources as provided in RCW 70.94.162, shall be deposited in a dedicated air operating permit account. Such fees shall be used exclusively to support and administer the operating permit program.

(2) The Authority shall keep a record of all reasonable (direct and indirect) costs to develop and administer the Operating Permit Program as specified in 40 CFR Part 70. This information shall be used by the Authority to develop the Operating Permit Program budget specified in section (3) above. The information obtained from tracking revenues, time and expenditures shall not provide a basis for challenge to the amount of an individual source's fee.

(3) In the event that the assessed fees exceed the cost of developing and administering the Operating Permit Program, such excess fees shall be used to develop and administer the Operating Permit Program in the next subsequent year. The amount of the excess fees shall be deducted from the projected budget of the next subsequent year prior to fee assessment for the subsequent year.

(f) Fee eligible activities.

(1) Preapplication assistance and review of an application and proposed compliance plan for a permit, permit revision or permit renewal;

(2) Source inspections, testing and other data gathering activities necessary for development of a permit, permit revision or renewal;

(3) Acting on an application for a permit, permit revision or renewal, including the costs of developing an applicable requirement as part of the processing of a permit, permit revision or renewal, preparing a draft permit and fact sheet and preparing a final permit, but excluding the costs of developing BACT, LAER, BART or RACT requirements for criteria and toxic air pollutants;

(4) Notifying and soliciting, reviewing and responding to comment from the public and contiguous states and tribes, conducting public hearings regarding the issuance of a draft permit and other costs of providing information to the public regarding operating permits and the permit issuance process;

(5) Modeling necessary to establish permit limits or to determine compliance with permit limits;

(6) Reviewing compliance certifications and emission reports, conducting related compilation and reporting activities;

(7) Conducting compliance inspections, complaint investigations and other activities necessary to ensure that a source is complying with permit conditions;

(8) Administrative enforcement activities and penalty assessment, excluding the costs of proceedings before the Pollution Control Hearings Board (PCHB) and all costs of judicial enforcement;

(9) The share attributable to permitted sources to the development and maintenance of emissions inventories;

(10) The share attributable to permitted sources of ambient air quality monitoring and associated recording and reporting activities;

(11) Training for permit administration and enforcement;

(12) Fee determination, assessment and collection, including the costs of necessary administrative dispute resolution and enforcement;

(13) Required fiscal audits, periodic performance audits and reporting activities;

(14) Tracking of time, revenues and expenditures and accounting activities;

(15) Administering the permit program including costs of clerical support, supervision and management;

(16) Provision of assistance to small business under jurisdiction of SWAPCA as required under Section 507 of the Federal Clean Air Act; and

(17) Other activities required by operating permit regulations issued by EPA under the Federal Clean Air Act.

(g) **Late Fee Payments.** Fees shall be paid in accordance with the schedule of payment agreed upon in advance by the Control Officer and each operating permit source. Delinquent fees are subject to a late fee equal to three times the operating permit fee. The penalties authorized by this subsection are additional to and in no way prejudice SWAPCA's ability to exercise other civil and criminal remedies, including authority to revoke a source's operating permit for failure to pay all or part of its permit fee.

(h) **Schedules of Payment.** A source shall be allowed to pay its annual operating permit fees in one, two or four installments. Each schedule of payment shall specify the terms and dates of payments.

(i) **Transfer of Ownership.** Transfer of ownership of a source shall not affect that source's obligation to pay operating permit fees. Any liability for fee payment, including payment of delinquent fees and other penalties shall survive any transfer of ownership of a source.

(5) Inspections.

(a) Periodic onsite inspections of emission units and sources shall be allowed to verify compliance with applicable requirements, regulations, orders or rules governing the processes, equipment, or emissions from a source as set forth in RCW 70.94.200.

(b) Authority personnel or representatives shall have the authority to enter at reasonable times upon any private or public property excepting non-multiple unit private dwellings housing two families or less for the purpose of investi-

gating conditions specific to the control, recovery, or release of air contaminants to the atmosphere.

(c) No person shall refuse entry or access to Authority personnel who request entry for the purpose of inspection, who present appropriate credentials.

(d) No person shall obstruct, hamper or interfere with any such inspection.

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

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

AMENDATORY SECTION

SWAPCA 400-110 New Source Review

[Statutory Authority: Chapter 70.94.141 RCW, 70.94.152 RCW, and 70.94.331 RCW. Original Board adoption 12/17/68 (Regulation 1 Sec 3); Amended by Board 12/18/79; Amended by Board 8/18/81; Amended by Board 3/20/84; 92-06-015 filed 2/25/92, effective 3/25/92; 93-21-004 filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

(1) Applicability.

(a) New Source Review (NSR) means that if the new source, modification or substantial alteration or replacement meets the definition of "new source" then that new source or

modification must demonstrate that all applicable emission standards have been or will be met by the proposed modification or new source. A complete Notice of Construction application shall be submitted for each source required to submit an application under the requirements of this section. Confidential information shall be identified as set forth in SWAPCA 400-270.

Before the Authority may review a Notice of Construction application, a filing fee of ~~((\$75.00))~~ \$300.00 and a review fee, as shown in Table A shall be submitted by the applicant. If offsetting emission reductions or other types of review identified in Table B are required to be performed by the Authority as a result of the proposed installation, alteration, or modification, an additional review fee shall be paid. (Total Fee = Filing Fee + Review Fee [Table A] + Additional Review Fee [Table B]).

Notice of Construction application review fees based on emissions are to utilize actual or approved emissions, after controls, as supported by test data or emission factors, not potential to emit. Other review fees as noted in the fee tables are based on design capacities of the source equipment. Where a source may fall under multiple categories, only one fee per application shall apply; Table A fees are not considered additive as they apply to an application. In general, the fee determination shall be based on the primary emission unit or activity of the new, modified or altered source.

PROPOSED

**TABLE A
Notice of Construction Application Review Fees**

i.	Fuel Burning Equipment (Million Btu/hr heat input @ design capacity):	(Fuel Change)	(New Installation)	
	2 or more but less than 5	((<u>\$25.00</u>)) <u>\$100.00</u>	<u>\$300.00</u>
	5 or more but less than 10	((<u>50.00</u>)) <u>200.00</u>	<u>400.00</u>
	10 or more but less than 30	((<u>100.00</u>)) <u>350.00</u>	<u>550.00</u>
	30 or more but less than 50	((<u>200.00</u>)) <u>500.00</u>	<u>700.00</u>
	50 or more but less than 100	((<u>300.00</u>)) <u>1,000.00</u>	<u>1200.00</u>
	100 or more but less than 250	((<u>400.00</u>)) 2,500.00	
	250 or more but less than 500	((<u>500.00</u>)) 4,000.00	
	500 or more	((<u>600.00</u>)) 6,000.00	
ii.	Discharge from control equipment or from uncontrolled process equipment (Actual Cubic Feet per Minute - ACFM):			
	Less than 5	\$(<u>100.00</u>	<u>300.00</u>	
	5 or more but less than 5,000	((<u>200.00</u>	<u>400.00</u>	
	5,000 or more but less than 20,000	((<u>300.00</u>	<u>500.00</u>	
	20,000 or more but less than 50,000	((<u>400.00</u>	<u>600.00</u>	
	50,000 or more but less than 100,000	((<u>500.00</u>	<u>700.00</u>	
	100,000 or more but less than 250,000	1,000.00		
	250,000 or more but less than 500,000	2,000.00		
	500,000 or more	4,000.00		
iii.	Refuse Burning Equipment (Incinerators)(Tons/day):			

0.5 or more but less than 5	\$(100.00)	<u>500.00</u>
5 or more but less than 12	1,000.00	
12 or more but less than 250	3,000.00	
250 or more		4,000.00
iv. Storage Tanks, Reservoirs, or Containers (Gallons-total capacity): (Other than gasoline or diesel fuel dispensing facilities)		
250 or more but less than 10,000	\$(100.00)	<u>300.00</u>
10,000 or more but less than 40,000	((500.00))	<u>700.00</u>
40,000 or more but less than 100,000	1,000.00	
100,000 or more	2,000.00	
v. Gasoline Dispensing Facilities		
Stage I	\$(100.00)	<u>300.00</u>
Stage II	((200.00))	<u>400.00</u>
Stages I & II, combined	((200.00))	<u>500.00</u>
((Installation of storage tanks greater than 2000 gallons	100.00))	
Toxics review for gasoline facility	500.00	<u>1500.00</u>
vi. Other (Not classified in Subsection i., ii., iii., or iv. above)	\$(+) 200.00/ton of emission	
vii. Toxic Air Contaminants	\$(+) 200.00 up to one ton and \$100.00 for each additional ton	
viii. Major Source or Major Modification	\$5,000.00	
ix. Synthetic minor application (including, but not limited to: Title V, HAP)	Not to exceed \$5,000.00	
x. Particulate Matter and Fugitive Emissions from Rock Crushing, Material Transfer and Ship Loading (Emissions - tons per year)		
1.0 or more but less than or equal to 10	\$(100.00)	<u>300.00</u>
More than 10 but less than or equal to 50	((500.00))	<u>700.00</u>
More than 50 but less than or equal to 100	1,000.00	
More than 100 but less than 250	2,500.00	
250 or greater	5,000.00	
xi. Modifications to an Existing Order	\$(200.00)	<u>300.00</u>
xii. Installation or Operation of a Temporary, Substitute or Emergency Source	\$(300.00)	<u>500.00</u>

PROPOSED

**TABLE B
Other Review Fees**

The following fees are considered additive to the filing and review fees assessed for Notice of Construction applications (Table A). These fees apply to activities that may be requested of and performed by the Authority with or without submittal of a Notice of Construction application and are not part of the activities normally performed by the Authority as part of the Notice of Construction application review.

xiii.	Emission Offset Analysis <u>or</u> Bubble	\$(200.00)	<u>400.00</u>
xiv.	Emission Reduction Credit (ERC) Application (Deposit or withdrawal)	\$(200.00)	<u>400.00</u>
xv.	State Environmental Policy Act (SEPA) - Lead Agency	\$1000.00	
xvi.	Environmental Impact Statement (EIS) Review	\$500.00	
xvii.	RACT/BACT/MACT/BART/LAER Determination	(\$2,000.00)	<u>\$50.00/hr</u>
xviii.	Variance request	\$500.00	

(b) A Notice of Construction application that meets the minimum requirements for New Source Review must be filed by the owner or operator and an Order of Approval issued by the Authority prior to the establishment of any new source or emission unit or modification which is listed in SWAPCA 400-100 or required to obtain an Operating Permit under RCW 70.94.161.

(c) The Authority may require that:

(i) a Notice of Construction application be filed by the owner or operator of a proposed new source or modification,

(ii) the source meets all New Source Review requirements, and

(iii) an Order of Approval be issued by the Authority prior to the establishment of any new source or emission unit or modification, other than a single family or a duplex dwelling.

(d) New Source Review of a modification shall be limited to the emission unit or units proposed to be added to an existing source or modified and the air contaminants whose emissions would increase as a result of the modification.

(e) New Source Review is not required for those sources whose facility wide combined emissions (potential to emit) do not exceed the limits specified in SWAPCA 400-101 or whose emission unit capacities are less than the minimum quantities specified in Table A of SWAPCA 400-110(1)(a). The owner or operator of an exempt facility shall maintain sufficient documentation acceptable to the Authority to substantiate that the source is entitled to exemption under this section. An emission unit exempt from registration under SWAPCA 400-100 or 400-101 may be exempt from New Source Review requirements.

(f) New Source Review is not required when the following conditions are met:

(i) Performance of routine maintenance or repair that involves the replacement of like-in-kind air pollution control

equipment or controls. This includes upgrades of parts or components where due to wear or breakage, parts or components must be replaced and exact replacement parts or components are no longer available from the original equipment manufacturer or after market vendors. In no case shall the replacement parts result in an increase in actual emissions above allowable emissions;

(ii) A process change is made that does not result in an emission of a different type not previously approved or an increase in capacity and total air pollutant emissions;

(iii) A process change is made that does not result in an emission of a different type of toxic air pollutant, as provided in SWAPCA 460, not previously approved and individual toxic air pollutant emissions do not exceed the Small Quantity Emission Rates specified in the Small Quantity Emission Rate tables in SWAPCA 460-080 (annual rate);

(iv) A raw material composition change that does not result in individual toxic air pollutant emissions that exceed the Small Quantity Emission Rates specified in the Small Quantity Emission Rate tables in SWAPCA 460-080 (annual rate);

(g) Any source required to submit a Notice of Construction application for New Source Review is required to demonstrate that all applicable emission standards have been or will be met by the proposed modification or new source. Examples of applicable emissions standards may include, but not be limited to: RACT, BACT, LAER, BART, MACT, NSPS, NESHAPS, and any ambient air quality standards as identified in Table C. Requirements for new and modified sources and replacement or alteration of control equipment are further addressed in SWAPCA 400-111, 400-112, 400-113, 400-114, and 400-151.

**TABLE C
Emission Concentration Regulatory Standards and Significance Levels**

Pollutant	Averaging Period	Class II	Class I	Class II	NAAQS		Washington
		Significant Impact Criteria µg/m ³ (ppm)	PSD Increments µg/m ³ (ppm)	PSD Increments µg/m ³ (ppm)	Primary Ambient Standards µg/m ³ (ppm)	Secondary Ambient Standards µg/m ³ (ppm)	Ambient Standards µg/m ³ (ppm)
Carbon Monoxide	8-Hour	500	—	—	10,000 ^b (9.0)	10,000 ^b (9.0)	10,000 ^b (9.0)

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Pollutant	Averaging Period	Class II Significant Impact Criteria $\mu\text{g}/\text{m}^3$ (ppm)	Class I PSD Increments $\mu\text{g}/\text{m}^3$ (ppm)	Class II PSD Increments $\mu\text{g}/\text{m}^3$ (ppm)	NAAQS		Washington
					Primary Ambient Standards $\mu\text{g}/\text{m}^3$ (ppm)	Secondary Ambient Standards $\mu\text{g}/\text{m}^3$ (ppm)	Ambient Standards $\mu\text{g}/\text{m}^3$ (ppm)
(CO) (WAC 173-475)	1-Hour	2,000	—	—	40,000 ^b (35.0)	40,000 ^b (35.0)	40,000 ^b (35.0)
Nitrogen Dioxide (NO ₂) (WAC 173-475)	Annual ^a (arithmetic mean)	1	2.5	25	100 (0.05)	100 (0.05)	100 (0.05)
Ozone (O ₃) (WAC 173-475)	1-Hour ^e	—	—	—	(0.12)	(0.12)	(0.12)
Ozone (O ₃) (40 CFR Part 50) (62 FR 38856)	8-Hour ^f	—	—	—	(0.08)	(0.08)	—
Sulfur Dioxide (SO ₂) (WAC 173-474)	Annual ^a	1	2	20	80 (0.03)	—	53 (0.02)
	24-Hour	5	5	91	365 ^b (0.14)	—	260 ^b (0.10)
	3-Hour	25	25	512	—	1,300 ^b (0.50)	—
	1-Hour	—	—	—	—	—	1,065 ^b (0.40) ^d
Total Reduced Sulfur (TRS)	1-Hour	—	—	—	—	—	—
Total Suspended Particulates (TSP) (WAC 173-470)	Annual ^a (geometric mean)	1	5	19	75	60 ^c	60
	24-hour	5	10	37	260 ^b	150 ^b	150 ^b
Particulate Matter less than 10 μm (PM ₁₀) (WAC 173-470)	Annual (geometric mean)	1	—	17	50	50	50
	24-Hour ⁱ	5	—	30	150 ^b	150 ^b	150 ^b
Particulate Matter less than 2.5 μm (40 CFR Part 50) (62 FR 38652)	Annual ^a	—	—	—	15	15	—
	24-Hour ^h	—	—	—	65	65	—
Lead	Quarterly Average	—	—	—	1.5	1.5	1.5

$\mu\text{g}/\text{m}^3$ = micrograms per cubic meter, ppm = parts per million

^a Never to be exceeded.

^b Not to be exceeded more than once per year.

^c This is not a standard, rather it is to be used as a guide in assessing whether implementation plans will achieve the 24-hour standard.

^d Also, 0.25 ppm not to be exceeded more than twice in seven days.

^e Not to be exceeded on more than 1 day per calendar year as provided in WAC 173-475

^f Based on the three year average of the annual fourth-highest daily maximum 8-hour average ozone concentration at each monitor.

^g Based on the 3-year average of annual arithmetic mean PM_{2.5} concentrations.

^h Based on the 3-year average of the 98th percentile of 24-hour PM_{2.5} concentrations at each monitor within an area.

ⁱ Based on the 99th percentile of 24-hour PM₁₀ concentrations at each monitor.

Annual standards never to be exceeded; short term standards not to be exceeded more than once per year unless otherwise noted.

Sources include the EPA New Source Review Workshop Manual, 40 CFR 52.21 and individual WAC Chapters.

The significant impact criteria are used to determine if a proposed project or modification will cause a significant deterioration in ambient air quality for Class II areas. If a proposed project impacts (i.e., changes in ambient concentrations resulting from the proposed project or modification alone) are predicted to be less than the significant impact criteria, then the air quality analysis is complete at that point. If the ambient impact of a proposed project or modification exceeds these levels, compliance with available PSD increments and AAQS must then be demonstrated. If a proposed project or modification exceeds the significant ambient concentrations for Class II areas, monitoring of existing ambient

air quality may be required if data sufficient to characterize background air quality are not available.

(2) **Completeness determination.** Within thirty (30) calendar days of receipt of a Notice of Construction application, the Authority shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary, based upon review of information already supplied, to complete the application as provided under RCW 70.94.152. For a project subject to PSD review under SWAPCA 400-141 a completeness determination includes a determination that the application provides all information required to conduct PSD review. The Authority may request additional clarification of

information submitted from the source after a completeness determination has been made for a Notice of Construction application.

(3) Final determination/Regulatory Orders.

(a) Within sixty (60) calendar days of receipt of a complete application, the Authority shall either issue a final decision on the application or, for those projects subject to public notice, issue a preliminary determination and initiate notice and comment procedures under SWAPCA 400-171 on a proposed decision, followed as promptly as possible by a final decision. An owner or operator seeking to construct or modify a source that requires an operating permit may elect to integrate review of the operating permit application or amendment required under RCW 70.94.161 and the Notice of Construction application required by this section. A Notice of Construction application designated for integrated review shall be processed in accordance with ((SWAPCA)) WAC 173-401 procedures and deadlines.

(b) Every final determination on a Notice of Construction application that results in the issuance of an Order of Approval by the Authority shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the Authority.

(c) If the new source is a major stationary source or the change is a major modification, the Authority shall submit any control technology determination(s) included in a final Order of Approval to the RACT/BACT/LAER clearinghouse maintained by EPA.

(4) Appeals. An Order of Approval, any conditions contained in an Order of Approval, the denial of a Notice of Construction application, or any other regulatory order issued by the Authority, may be appealed to the Board of Directors as specified in SWAPCA 400-220 of this regulation or appealed directly to the Pollution Control Hearings Board within 30 calendar days of receipt as provided in Chapter 43.21B RCW. The Authority shall promptly mail copies of each order approving or denying a Notice of Construction application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising the parties of their rights of appeal to the Pollution Control Hearings Board and, where applicable, to the EPA Environmental Appeals Board.

(5) Portable sources. For portable sources which locate temporarily at particular sites, the owner(s) or operator(s) shall be allowed to operate at the temporary location without filing a Notice of Construction application for each location provided that:

(a) The source/emissions units are registered with the Authority.

(b) The source/emissions units have an Order of Approval as a portable source.

(c) The owner(s) or operator(s) notifies the Authority of intent to operate at the new location at least ten business days prior to starting the operation.

(d) The owner(s) or operator(s) supplies sufficient information including production quantities and hours of operation, to enable the Authority to determine that the operation will comply with the emission standards for a new source, and will not cause a violation of applicable ambient air qual-

ity standards and, if in a nonattainment area, will not interfere with scheduled attainment of ambient standards.

(e) The owner(s) and/or resident(s) of immediately adjacent properties shall be notified by the owner(s) or operator(s) of the portable source in writing at least 10 business days prior to commencement of operations at the proposed location with copies mailed to the Authority. Written notification to the adjacent landowners/residents shall be by certified mail with return receipt requested. Such written notification shall include a complete description of the proposed operation, the associated emissions control provisions and equipment, the total estimated project emissions, the name, address and phone number of the person in charge of the operation, and the address and phone number for SWAPCA. Written notification shall indicate that all comments shall be directed to the Authority.

(6) Compliance. Noncompliance with any emission limit, test requirement, reporting requirement or other requirement identified in a regulatory order issued pursuant to this section shall be considered a violation of this section.

(7) Expiration. Approval to construct or modify a stationary source shall become invalid if construction is not commenced within eighteen months after the date of issuance of an Order of Approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The Authority may extend the eighteen-month period upon a satisfactory demonstration that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen months of the projected and approved commencement date. The Authority may specify an earlier date for commencement of construction in an Order of Approval.

(8) Temporary, Emergency, or Substitution Sources.

(a) A temporary source shall be considered to be a new source. The Authority may require that a Notice of Construction application and applicable review fees be submitted before reviewing a request for a temporary, emergency or substitution source. The Authority may provide approval for special situations for a source without meeting the requirements for New Source Review when one or more of the following conditions are met:

(i) The temporary source is needed to replace a previously approved similar source where the approved source is non-functional due to breakdown or other similar circumstances beyond the control of the owner or operator. This may include replacement steam or power supply units where facilities have an immediate need to continue production or service to public or private industries, or have a need for an extended or unscheduled shutdown of equipment that is of a duration not otherwise planned for. The Authority may provide written approval for a temporary source that may include but not be limited to emission limits, operational or maintenance requirements or limitations, monitoring and reporting requirements, and testing requirements. Installation of a temporary source due to poor or improper maintenance or operations is required to submit a Notice of Construction application for permanent replacement within 30 days of installation.

(ii) The temporary source is necessary to support public or private needs in the event of a local or regional disaster when proper planning could not be accommodated. In no event shall the temporary source be authorized for operations for durations greater than three months. Written approval shall be provided by the Authority that may contain but not be limited to: emission limits, operation and maintenance requirements and limitations, monitoring and reporting requirements, and testing requirements. For operations greater than three months the owner or operator shall submit a Notice of Construction application under New Source Review requirements (SWAPCA 400-110) for approval from the Authority.

(iii) The temporary source is a one time special need, urgent application, that can not otherwise be accommodated through the New Source Review process due to the critical nature of the source and time constraints. As a condition of approval under this expedited approval process, a new source of this type could not request to be allowed or expected to operate within the jurisdiction of the Authority for the following three years. Written approval shall be provided by the Authority that may contain but not be limited to: emission limits, operation and maintenance requirements and limitations, monitoring and reporting requirements and testing requirements. In no case shall approval be provided for operation greater than three months. For operations greater than three months, the owner or operator shall submit a Notice of Construction application under the New Source Review requirements of SWAPCA 400-110.

(b) An emergency source is the result of an emergency situation that could not otherwise be planned for. The Authority shall provide written approval for an emergency source provided that the owner or operator has provided sufficient documentation or demonstration of the need for the source to the satisfaction of the Control Officer. The written approval may include but not be limited to: emission limits, operation and maintenance requirements and limitations, monitoring and reporting requirements, and testing requirements. In no case shall approval be provided for operations greater than three months.

(c) A substitute source is the same as a temporary source as in (a) above. A substitute source may be of a different manufacturer and model number and size and may result in increased emissions from installation from previously approved equipment on a short term basis. The Authority shall provide written approval for a substitute source that may include but not be limited to: emission limits, operational or maintenance requirements or limitations, monitoring and reporting requirements, and testing requirements. In no event shall the substitute source be authorized for operations for durations greater than three months. For operations greater than three months, the owner or operator shall submit a Notice of Construction application under the New Source Review requirements of SWAPCA 400-110.

~~(((9) Gasoline dispensing facilities.~~

~~(a) Owners or operators of gasoline dispensing facilities shall submit a Notice of Construction application for all new or upgraded facilities as defined in SWAPCA 491 prior to installation, construction or modification. New Source Review fees shall apply for all Notice of Construction appli-~~

~~ations as identified in SWAPCA 400-110. Installation of vapor control equipment and compliance schedules shall be as provided in SWAPCA 491. Applications for installation of Stage II equipment shall include a Stage I application if the tanks, spill/overflow collection, cathodic protection or Stage I controls are to be replaced, changed or modified as part of the Stage II activity.~~

~~(b) All gasoline vapor control equipment installed at gasoline dispensing facilities shall be certified by the California Air Resources Board (CARB) and shall have a CARB Executive Order issued for the vapor control equipment.~~

~~(c) Notice of Construction application for a gasoline dispensing facility shall be submitted to the Authority prior to installation, construction, or upgrade of gasoline dispensing equipment, control equipment, or facilities.~~

~~(d) The Authority shall provide written notification to the applicant within 30 calendar days of receipt of the application if the application is complete and in accordance with applicable requirements. An Order of Approval may not be issued for a Notice of Construction for gasoline dispensing facilities and the public notice and comment procedures may not be required if the Notice of Construction application provides for certified or approved equipment and controls as identified in (b) above. The applicant may begin construction, upgrade, or operation upon receipt of written notification of approval of the application from the Authority. Written approval from the Authority may contain additional testing, monitoring and reporting requirements.~~

~~(e) Within 10 calendar days of installation of a new facility, Stage I or Stage II controls, or upgrades as provided in SWAPCA 491-020, the owner or operator shall notify the Authority in writing that the activities as identified in the Notice of Construction and associated testing are complete. Test results shall be submitted to SWAPCA within 14 calendar days of testing.~~

~~(f) All new facilities with Stage I gasoline vapor recovery systems shall have a back pressure/blockage test performed at the time of installation to ensure proper connection and absence of leaks.~~

~~(g) All new installations of Stage II vapor recovery controls shall have a static pressure decay test performed at the time of installation in accordance with CARB draft TP 201.3 or an Authority approved equivalent. Identification of the test method shall be included in the Notice of Construction application and results of the testing shall be submitted to the Authority with the notification provided in (e) above. The Authority may specify other or additional test requirements in the written Order of Approval. This testing shall be performed annually by each new facility to ensure proper operation. Results of the testing shall be submitted to SWAPCA as provided in (e) above.~~

~~(h) All vacuum assisted Stage II vapor recovery controls shall be performance tested by performance of an air to liquid ratio test at the time of installation. Such testing is in addition to the back pressure/blockage testing and static pressure decay test of items (f) and (g) above and shall be performed in accordance with the CARB Executive Order certifying the equipment, CARB draft test procedure TP 201.5, or an Authority approved equivalent. Identification of the preferred test method shall be included in the Notice of Con-~~

~~struction application and results of the testing shall be submitted to the Authority with the notification provided in (e) above. The Authority may specify other or additional test requirements in the written Order of Approval.~~

~~(i) Stage I and Stage II vapor recovery equipment shall be maintained in proper working order at all times. All Stage I and Stage II vapor recovery equipment shall be maintained in accordance with the CARB Executive Order(s) certifying the equipment or system. Whenever a Stage I or Stage II gasoline vapor recovery system or component is determined to be defective or not operating properly, the owner or operator shall immediately take the system out of service until repairs are made. Systems shall not be returned to service until the defective system is operating properly.~~

~~(j) Delivery rates for the gasoline dispensing systems shall be limited to the rates approved in the CARB Executive Order certifying the equipment or system, and in no case shall any delivery system exceed 10 gallons per minute as provided by EPA in the Federal Register, Volume 58, Number 55, page 16019.~~

~~(k) The owner or operator shall submit gasoline throughput figures annually (on a calendar basis) to the Authority by January 31 of each year.~~

~~(l) The owner or operator of a gasoline dispensing facility and/or the delivery person shall not permit the loading of gasoline into a gasoline storage tank equipped with vapor recovery fittings from a transport tank equipped with vapor recovery fittings unless the vapor recovery system is attached to the transport tank and operated satisfactorily at all times when fuel is unloaded.~~

~~(m) Pressure/vacuum valves shall be installed as required by the CARB Executive Orders that certify the particular Stage I or Stage II vapor recovery equipment. Relief set points shall be adhered to as provided in the applicable CARB Executive Orders and local fire ordinances.~~

~~(n) Any alteration of the equipment, parts, design, or operation of the nozzles or gasoline dispensing system as certified by CARB is prohibited, and shall not be performed without submittal of a Notice of Construction application and prior approval from the Authority.~~

~~(o) No person or entity shall sell, offer for sale, supply, offer for supply, dispense, transport, or introduce into commerce, for use as a fuel in any motor vehicle any gasoline which contains lead or lead additives after December 31, 1995 as provided at Section 211(n) of the 1990 Federal Clean Air Act Amendments.~~

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

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 98-15-053
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed July 10, 1998, 9:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-07-039.

Title of Rule: WAC 388-508-0805 Pregnant woman—Income standards, 388-509-0920 Children's health program, and 388-509-0960 Children's income standards.

Purpose: This proposed amendment is necessary to adopt new income levels to reflect the federal poverty level standards effective April 1, 1998.

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

Statute Being Implemented: Poverty guidelines updated annually in the Federal Register under authority of Section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 USC 9902(2)).

Summary: These amendments increase income standards to reflect the new federal poverty level. These changes will increase the number of pregnant women and children who are eligible for medical assistance.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Joanie Scotson, Medical Assistance Administration, 617 8th S.E., Olympia, WA, (360) 753-7462.

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

Rule is necessary because of federal law, Section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 USC 9902(2)).

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

Proposal Changes the Following Existing Rules: Changes income standards based on the federal poverty level.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses. This rule affects eligibility of public assistance clients.

RCW 34.05.328 does not apply to this rule adoption. This rule does not meet the definition of "significant legislative rule" so a cost benefit analysis has not been prepared.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on August 25, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by August 14, 1998, voice (360) 902-7540, or TTY (360) 902-8324.

Submit Written Comments to: Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 902-8292, by August 25, 1998.

Date of Intended Adoption: August 31, 1998.

July 7, 1998

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

PROPOSED

AMENDATORY SECTION (Amending WSR 97-16-008, filed 7/24/97, effective 7/24/97)

WAC 388-508-0805 Pregnant woman—Income standards. ~~((1) The department shall find))~~ This chapter describes the income standards used to determine the eligibility of a pregnant woman for a medical program. A pregnant woman is eligible for categorically needy Medicaid ~~((as categorically needy))~~ when the ~~((pregnant woman meets the income requirements of this section.~~

~~(2) The department shall ensure total family income will))~~ countable family income does not exceed one hundred eighty-five percent of the Federal Poverty Level (FPL). One hundred eighty-five percent of the ~~((current))~~ FPL is:

Family Size	Monthly Income
((a)) (1) One	\$((1,217)) <u>1,242</u>
((b)) (2) Two	\$((1,636)) <u>1,673</u>
((c)) (3) Three	\$((2,056)) <u>2,105</u>
((d)) (4) Four	\$((2,475)) <u>2,537</u>
((e)) (5) Five	\$((2,894)) <u>2,968</u>
((f)) (6) Six	\$((3,314)) <u>3,400</u>
((g)) (7) Seven	\$((3,733)) <u>3,832</u>
((h)) (8) Eight	\$((4,152)) <u>4,263</u>
((i)) (9) Nine	\$((4,572)) <u>4,695</u>
((j)) (10) Ten	\$((4,991)) <u>5,127</u>

~~((k))~~ (11) For ~~((family))~~ assistance units with more than ten members, add ~~\$((420))~~ 432 to the monthly income for each additional member.

AMENDATORY SECTION (Amending WSR 97-16-008, filed 7/24/97, effective 7/24/97)

WAC 388-509-0920 Children's health program. This section describes the children's health program for children who are ineligible for Medicaid. (1) ~~((The department shall consider))~~ A child ~~((seventeen years of))~~ under age ~~((or younger;))~~ eighteen is eligible for state-funded medical services, with the same coverage as categorically needy, when~~((:~~ ~~((a))~~ the child is not eligible for a federally-funded Medicaid program~~((; and~~

~~((b) The child's nonexempt family income does not exceed one hundred percent of the current federal poverty level (FPL). See income guidelines as described under subsection (4) of this section.~~

~~(2) The department shall determine nonexempt family income by:~~

~~(a) Following AFDC methodology; and~~

~~(b) Applying the medical income rules as described under WAC 388-506-0610.~~

~~(3) The department shall not require a child to meet the following eligibility factors:~~

~~(a) Citizenship;~~

~~(b) Social Security number; or~~

~~(c) Resources limits.~~

~~(4) The department shall find that))~~ and meets the income standards described in subsection (4).

~~(2) Citizenship, Social Security number, and resource standards are not eligibility factors for the children's health program.~~

~~(3) Countable family income is determined using TANF methodology and the medical income rules as described under WAC 388-506-0610.~~

~~(4) The countable income in the child's assistance unit may not exceed one hundred percent of the federal poverty level (FPL). One hundred percent of the current FPL equals:~~

Family Size	Monthly Income
(a) One	\$((658)) <u>671</u>
(b) Two	\$((885)) <u>905</u>
(c) Three	\$((1,111)) <u>1,138</u>
(d) Four	\$((1,338)) <u>1,371</u>
(e) Five	\$((1,565)) <u>1,605</u>
(f) Six	\$((1,791)) <u>1,838</u>
(g) Seven	\$((2,018)) <u>2,071</u>
(h) Eight	\$((2,245)) <u>2,305</u>
(i) Nine	\$((2,471)) <u>2,538</u>
(j) Ten	\$((2,698)) <u>2,771</u>

~~(k) For ((family)) assistance units with more than ten members, add \$((227))~~ 234 to the monthly income for each additional member.

~~(5) ((For a child determined eligible under this section, the department shall not consider))~~ A change in family income during the certification period does not affect eligibility for a child determined eligible under this section.

AMENDATORY SECTION (Amending WSR 97-16-008, filed 7/24/97, effective 7/24/97)

WAC 388-509-0960 Children's income standards. This section describes income standards used to determine a child's Medicaid eligibility. (1) ~~((The department shall determine))~~ A child meeting the eligibility requirements under WAC 388-509-0910 is eligible as categorically needy when the ~~((total family))~~ countable income in the child's assistance unit does not exceed two hundred percent of the federal poverty level (FPL). ~~((The department shall find that))~~ Two hundred percent of the ~~((current))~~ FPL equals:

Family Size	Monthly Income
(a) One	\$((1,315)) <u>1,342</u>
(b) Two	\$((1,769)) <u>1,809</u>
(c) Three	\$((2,222)) <u>2,275</u>
(d) Four	\$((2,675)) <u>2,742</u>
(e) Five	\$((3,129)) <u>3,209</u>
(f) Six	\$((3,582)) <u>3,675</u>
(g) Seven	\$((4,035)) <u>4,142</u>
(h) Eight	\$((4,489)) <u>4,609</u>
(i) Nine	\$((4,942)) <u>5,075</u>
(j) Ten	\$((5,395)) <u>5,542</u>

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(k) For ~~((family))~~ assistance units with more than ten members, add \$~~((454))~~ 467 to the monthly income for each additional member.

(2) ~~((For a child determined eligible under WAC 388-509-0910, the department shall not consider))~~ A change in ((family)) the assistance unit's income during the certification period does not affect eligibility for a child determined eligible under WAC 388-509-0910.

Date of Intended Adoption: August 26, 1998.

July 9, 1998

Annette M. Sandberg
Chief

AMENDATORY SECTION (Amending WSR 96-18-017, filed 8/26/96, effective 9/26/96)

WSR 98-15-055
PROPOSED RULES
WASHINGTON STATE PATROL

[Filed July 10, 1998, 9:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-11-037.

Title of Rule: Superintendent of public instruction—Prospective educational employees—Fees.

Purpose: To raise existing fees charged for background fingerprint checks on current and potential school district and educational service district employees by six dollars.

Statutory Authority for Adoption: RCW 43.43.830 - [43.43.]845, ESSB 6108, chapter 346, Laws of 1998.

Summary: ESSB 6108 allows the Washington State Patrol to raise existing fees charged for background fingerprint checks on current and potential school district and educational service district employees by six dollars.

Reasons Supporting Proposal: The fee increase is necessary to offset rising processing costs.

Name of Agency Personnel Responsible for Drafting and Implementation: Ms. Toni Korneder, P.O. Box 42633, Olympia, WA, (360) 705-5101; and Enforcement: Captain John Broome, P.O. Box 42633, Olympia, WA, (360) 705-5350.

Name of Proponent: Washington State Patrol, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To raise existing fees charged for background fingerprint checks on current and potential school district and educational service district employees by six dollars. The fee increase is necessary to offset rising processing costs.

Proposal Changes the Following Existing Rules: Amends WAC 446-20-610 by increasing the processing fee from four dollars to ten dollars.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Washington State Patrol, Commercial Vehicle Division Conference Room, General Administration Building, Olympia, Washington 98504, on August 25, 1998, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Ms. Kendra Hensley, by August 18, 1998, (360) 753-0678.

Submit Written Comments to: Ms. Toni Korneder, fax (360) 664-9461, by August 18, 1998.

WAC 446-20-610 Superintendent of public instruction—Prospective educational employees—Fees. (1) In addition to the state search, an FBI search is required for requests submitted under chapter 28A.410 RCW. Two fingerprint cards are required to be submitted to the Washington state patrol identification and criminal history section.

(2) Appropriate nonrefundable fees are to be charged and made payable to the Washington state patrol for searches conducted under chapter 28A.410 RCW as follows:

(a) The fee for the state search is fifteen dollars for school district employees.

(b) The fee for the state search is twenty-five dollars for persons applying for their certification or for contractual employees.

(c) The fee for the FBI search is twenty-four dollars.

(d) In addition, a ~~((four))~~ ten-dollar processing fee will be charged for each fingerprint background check processed under chapter 28A.410 RCW. The Washington state patrol will reimburse the superintendent of public instruction ~~((four))~~ ten dollars for each fingerprint background check processed under this chapter for applicants who are certificated, contractual or classified.

(3) Prospective employees hired by the superintendent of public instruction, educational service districts, school districts and/or their contractors shall pay the appropriate fees for state and federal fingerprint checks conducted under chapter 28A.410 RCW.

(4) Fees are to be deposited in the Washington state patrol fingerprint identification account.

WSR 98-15-056
PROPOSED RULES
WASHINGTON STATE PATROL

[Filed July 10, 1998, 9:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-11-035.

Title of Rule: WAC 204-24-050 Use of tire chains or other traction devices.

Purpose: To require chain use, when needed, to both the north and south side of the pass on SR20. The current WAC requires chain use on only one side of the pass.

Statutory Authority for Adoption: RCW 46.37.005.

Summary: This amendment requires chain use, when needed, to both the north and south side of the pass on SR20. The current WAC requires chain use on only one side of the pass.

Reasons Supporting Proposal: Increased public safety.

Name of Agency Personnel Responsible for Drafting and Implementation: Ms. Carol Morton, P.O. Box 42635, Olympia, WA, (360) 412-8934; and Enforcement: Captain Marshall Pugh, P.O. Box 42614, Olympia, WA, (360) 753-0302.

Name of Proponent: Washington State Patrol, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment will improve public safety by requiring chain use, when needed, to both the north and south side of the pass on SR20. The current WAC requires chain use on only one side of the pass.

Proposal Changes the Following Existing Rules: Amends WAC 204-24-050 to include chain use to both the north and south side of the pass on SR20, when needed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Washington State Patrol, Commercial Vehicle Division Conference Room, General Administration Building, Olympia, Washington 98504, on August 25, 1998, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Ms. Kendra Hensley, by August 18, 1998, (360) 753-0678.

Submit Written Comments to: Ms. Carol Morton, fax (360) 493-9090, by August 18, 1998.

Date of Intended Adoption: August 26, 1998.

July 9, 1998

Annette M. Sandberg
Chief

AMENDATORY SECTION (Amending WSR 95-07-137, filed 3/22/95, effective 4/22/95)

WAC 204-24-050 Use of tire chains or other traction devices. (1) Vehicles under 10,000 pounds gross vehicle weight.

(a) When traffic control signs marked "approved traction tires required" are posted by the department of transportation it shall be unlawful for any vehicle to enter the controlled area without having mounted on its drive tires at least one of the traction devices meeting the requirements of WAC 204-24-040.

(b) When traffic control signs marked "chains required" are posted by the department of transportation it shall be unlawful for any vehicle to enter the controlled area without having mounted on its drive tires, tire chains meeting the standards in chapter 204-22 WAC.

(i) Exception for all wheel drive vehicles. When "chains required" signs are posted, all-wheel drive vehicles shall be exempt from the chain requirement when all wheels are in gear and are equipped with approved traction devices as specified in WAC 204-24-040 provided that tire chains for at least one set of drive tires are carried in the vehicle.

(2) Vehicles or combinations of vehicles over 10,000 pounds gross vehicle weight.

When traffic control signs marked "approved traction tires required" or "chains required" are posted by the depart-

ment of transportation it shall be unlawful for any vehicle or combination of vehicles to enter the controlled area without having mounted on its tires, tire chains as follows: *Provided*, That highway maintenance vehicles operated by the department of transportation for the purpose of snow removal and its ancillary functions are exempt from the following requirements if such vehicle has sanding capability in front of the drive tires.

(a) Vehicles or vehicle combinations with two to four axles including but not limited to trucks, truck-tractors, buses and school buses: For vehicles with a single drive axle, one tire on each side of the drive axle shall be chained. For vehicles with dual drive axles, one tire on each side of one of the drive axles shall be chained. For vehicle combinations including trailers or semi-trailers; one tire on the last axle of the last trailer or semi-trailer, shall be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(b) Automobile transporters are any vehicle combination designed and used specifically for the transport of assembled (capable of being driven) highway vehicles. For vehicles with single drive axles, one tire on each side of the drive axle shall be chained. For vehicles with dual drive axles, one tire on each side of each of the drive axles shall be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle of the last trailer or semi-trailer shall be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(c) Vehicle combinations with five axles consisting of a truck tractor with dual drive axles and a tandem axled semi-trailer; all tires on one drive axle may be chained or one tire on each side of each of the drive axles may be chained. Chains must be applied to a minimum of four tires on the drive axles. On the tandem axle semi-trailer, the chained tire may be on either of the last two axles.

(d) Vehicle combinations with five axles, consisting of a truck and trailer, or truck tractor and semi-trailer with a single drive axle, or truck tractor, semi-trailer and full trailer: For vehicles with a single drive axle, all tires on the drive axle shall be chained. For vehicles with dual drive axles, all tires on one of the drive axles shall be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle of the last trailer or semi-trailer shall be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(e) Vehicle combinations with six or more axles, including but not limited to truck and trailer or truck tractor and semi-trailer or truck tractor semi-trailer and full trailer: For vehicles with a single drive axle, all tires on the drive axle shall be chained. For vehicles with dual drive axles where traffic control signs marked "approved traction tires required" are posted, all tires on one of the drive axles shall be chained. For vehicles with dual drive axles where traffic control signs marked "chains required" are posted, all tires on one of the drive axles shall be chained. In addition, one tire on each side of the additional drive axle shall be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle shall be chained. For vehicles with tandem axle trailers or semi-trailers, the chained tire may be on either of the last two axles.

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(f) All vehicles over 10,000 pounds gross vehicle weight shall carry a minimum of two extra chains for use in the event that road conditions require the use of more chains or in the event that chains in use are broken or otherwise made useless.

(g) Approved chains for vehicles over 10,000 pounds gross vehicle weight shall have at least two side chains to which are attached sufficient cross chains of hardened metal so that at least one cross chain is in contact with the road surface at all times. Plastic chains shall not be allowed. The state patrol may approve other devices as chains if the devices are equivalent to regular chains in performance.

(h) On the following routes all vehicles and combinations of vehicles over 10,000 pounds shall carry sufficient tire chains to meet the requirements of this chapter from November 1 to April 1 of each year or at other times when chains are required for such vehicles:

(i) I-90 - between North Bend (MP 32) and Ellensburg (MP 101).

(ii) SR-97 - between (MP 145) and Junction SR-2.

(iii) SR-2 - between Dryden (MP 108) and Index (MP 36).

(iv) SR-12 - between Packwood (MP 135) and Naches (MP 187).

(v) SR-97 - between the junction of SR-14 (MP 4) Columbia River and Toppenish (MP 59).

(vi) SR-410 - from Enumclaw to Naches.

(vii) SR-20 - between Tonasket (MP 262) and Kettle Falls (MP 342); and SR-20 between Newhalem (MP 120) and Winthrop (MP 192).

(viii) SR-155 - between Omak (MP 79) and Nespelem (MP 45).

(ix) SR-970 - between (MP 0) and (MP 10).

Vehicles making local deliveries as indicated on bills of lading and not crossing the mountain pass are exempt from this requirement if operating outside of a chain required area.

(3) The Washington state department of transportation or Washington state patrol may prohibit any vehicle from entering a chain/approved traction tire control area when it is determined that the vehicle will experience difficulty in safely traveling the area.

WSR 98-15-082

PROPOSED RULES

PERSONNEL RESOURCES BOARD

[Filed July 16, 1998, 8:55 a.m.]

Continuance of WSR 98-13-059.

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

Title of Rule: WAC 356-26-110 Certification—Actions required.

Purpose: This rule pertains to actions taken on certifications.

Name of Proponent: Department of Personnel, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

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

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on September 10, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by September 3, 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 September 8, 1998.

Date of Intended Adoption: September 10, 1998.

July 14, 1998

Dennis Karras
Secretary

WSR 98-15-083

PROPOSED RULES

WASHINGTON STATE PATROL

[Filed July 16, 1998, 11:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-11-036.

Title of Rule: WAC 204-10-020 Lighting devices.

Purpose: To define acceptable type and use of additional hazard strobe lamps used by transit companies for public safety.

Statutory Authority for Adoption: RCW 46.37.005 and 46.37.320.

Summary: Transit companies expressed the desire to have the option of using additional hazard strobe lamps for public safety. This amendment will define acceptable type and use of these devices.

Reasons Supporting Proposal: Increased visibility and public safety.

Name of Agency Personnel Responsible for Drafting and Implementation: Ms. Carol Morton, P.O. Box 42635, Olympia, WA, (360) 412-8934; and Enforcement: Captain Marshall Pugh, P.O. Box 42614, Olympia, WA, (360) 753-0302.

Name of Proponent: Washington State Patrol, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Transit companies expressed the desire to have the option of using additional hazard strobe lamps for public safety. A pilot program was tested and the results were favorable. This amendment will define acceptable type and use of these devices.

Proposal Changes the Following Existing Rules: Amends WAC 204-10-020 to define acceptable type and use of additional hazard strobe lamps on municipal transit vehicles for public safety.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

RCW 34.05.328 does not apply to this rule adoption.

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Hearing Location: Washington State Patrol, Commercial Vehicle Division Conference Room, General Administration Building, Olympia, Washington 98504, on August 25, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Ms. Kendra Hensley by August 18, 1998, (360) 753-0678.

Submit Written Comments to: Ms. Carol Morton, fax (360) 493-9090, by August 18, 1998.

Date of Intended Adoption: August 26, 1998.

July 14, 1998
Annette M. Sandberg
Chief

AMENDATORY SECTION (Amending WSR 98-04-053, filed 1/30/98, effective 3/2/98)

WAC 204-10-020 Lighting devices. Aftermarket neon lighting devices may not be used on motor vehicles while they are in motion on public roadways.

(1) Federal Motor Vehicle Safety Standard 108 is hereby adopted by reference as the standard for the following aftermarket lighting devices:

- (a) Headlamps (shall be white only) (SAE J578)
- (b) Taillamps
- (c) Stoplamps
- (d) License plate lamps
- (e) Turn signal lamps
- (f) Side marker lamps
- (g) Intermediate side marker lamps
- (h) Backup lamps
- (i) Identification lamps
- (j) Clearance lamps
- (k) Parking lamps
- (l) Reflex reflectors
- (m) Intermediate reflex reflectors
- (n) Intermediate side reflex reflectors
- (o) Intermediate side marker reflectors
- (p) Turn signal operating units
- (q) Turn signal flashers
- (r) Vehicular hazard warning signal operating units
- (s) Vehicular hazard warning signal flashers

(2) Canadian Standards Association Standard D106.2 is hereby adopted by reference as the standard for the following lighting devices:

(a) Aftermarket headlamps (quartz-halogen nonsealed beam - shall be white only).

(i) Motorcycle headlamps may comply with either Federal Motor Vehicle Safety Standard 108 or Canadian Standard D106.2.

(b) Fog lamps. Fog lamps may comply with either Standard D106.2 or SAE Standard J583 as set forth in subsection (3)(a) of this section.

(3) Society of Automotive Engineers standards are hereby adopted by reference as the standard for the following lighting devices:

(a) Fog lamps (SAE J583), aftermarket fog lamps shall be white to amber only

(b) Fog tail lamps (SAE J1319)

(c) Auxiliary driving lamps (SAE J581), shall be white only and are not intended to be used alone or with the lower beam of a standard headlamp system

(d) Auxiliary low beam lamps (or auxiliary passing lamps) (SAE J582)

(e) Spot lamps (SAE J591)

(f) Cornering lamps (SAE J852)

(g) Supplemental high-mounted stop and rear turn signal lamps (SAE J1957 and J2068)

(h) Side turn signal lamps (SAE J914)

(i) 360 degree emergency warning lamps (SAE J845)

(j) Flashing warning lamps for agricultural equipment (SAE J974)

(k) Flashing warning lamps for authorized emergency, maintenance, and service vehicles (SAE J595)

(l) Flashing warning lamp for industrial equipment (SAE J96)

(m) Warning lamp alternating flashers (J1054)

(n) Green lamp for use on volunteer fireman's private vehicle (SAE J595) - flashing warning lamps for authorized emergency, maintenance, and service vehicles.

(i) Color of the lens shall be green as that color is described in SAE Standard J578 (Color specifications for electric signal lighting devices) rather than red or amber as specified in SAE J595.

(o) Side cowl, fender, or running board courtesy lamps (SAE J575)

(4) Standards promulgated by the commission on equipment for the following lighting devices shall be as set forth in the Washington Administrative Code chapters as indicated:

(a) Deceleration alert lamp system (chapter 204-62 WAC)

(b) Headlamp modulator (chapter 204-78 WAC)

(c) Headlamp flashing system (chapter 204-80 WAC)

(d) School bus warning lamps (chapter 204-74 WAC)

(e) Additional hazard strobe lamp. Municipal transit vehicles (as defined in RCW 46.04.355) may be equipped with a single additional hazard strobe lamp. Such lamps must meet the Class I requirements of SAE Standard J1318

(i) A clear lens strobe lamp, less than eight inches in height, may be mounted on the centerline of the roof in the rear one-half of the bus

(ii) The hazard strobe lamp will be activated by a switch independent of all other lamp switches. The hazard strobe lamp switch shall be plainly labeled and have a pilot lamp that shall indicate when the lamp is in operation

(iii) The use of a hazard strobe lamp is permitted only when the bus is occupied with passengers and one or more of the following conditions exist:

(A) The bus is in motion in inclement, sight obscuring conditions, including, but not limited to rain, fog, snow, and smoke;

(B) There is a need to improve the visibility of the bus when stopping, standing, or starting onto a highway or there is limited visibility caused by geographic hazards, such as winding roadways, hills, trees, etc.

The strobe lamp shall not be activated solely because of darkness.

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.

WSR 98-15-094
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Commission Docket No. A-970591—Filed July 16, 1998, 3:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-17-047.

Title of Rule: Petition for enforcement of interconnection agreements, WAC 480-09-530.

Purpose: This proposed rule is designed to provide an expedited means of resolving disputes arising out of interconnection agreements between local exchange companies and others, which provide the basis for interconnections to serve telecommunications traffic of each that must be routed over the other's facilities.

Statutory Authority for Adoption: RCW 80.01.040, 80.04.160, section 2, chapter 337, Laws of 1998.

Summary: This proposed rule would establish a process designed to provide a forum for parties to interconnection agreements to get speedy yet studied decisions to resolve disputes arising under those agreements.

Reasons Supporting Proposal: Disputes arising under interconnection agreements have characteristics that are different from many other kinds of disputes that the commission resolves in adjudicative settings. These include the existence of an interconnection agreement; the availability of arbitration under federal law at the origin of the agreement a history of parties dealing with each other under the agreement; quite often, a provision in the interconnection agreement requiring the parties to discuss and negotiate problems relating to the agreement; and a perceived need to gain a speedy resolution of the dispute. Those factors support adoption of a rule specifically designed for such disputes.

Name of Agency Personnel Responsible for Drafting: C. Robert Wallis, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1142; Implementation and Enforcement: Carole J. Washburn, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1174.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposed rule would provide a specific process for enforcement of interconnection agreements — contracts between telephone companies for the transportation of messages on each others' facilities, which are entered pursuant to the federal Telecommunications Act of 1996. Carriers faced with the need for enforcement of such an agreement need a speedy forum and one that can evaluate parties' contentions fairly and knowledgeably. This proposal is intended to afford speedy and fair enforcement of interconnection agreements.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal would impose no, or only minimal, additional costs on affected businesses.

RCW 34.05.328 does not apply to this rule adoption. The law is not mandatory for rules of the Utilities and Trans-

portation Commission, and this rule is not one of the sort to which the law applies.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, on August 26, 1998, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Pat Valentine by August 24, 1998, TDD (360) 586-8203, or (360) 664-1133.

Submit Written Comments to: Carole J. Washburn, Secretary, P.O. Box 47250, Olympia, WA 98504, e-mail to <records@wutc.wa.gov>, fax (360) 586-1150, by August 7, 1998. Please include both Docket No. A-970561 and "Interconnection enforcement petition rule making" in your communication.

Date of Intended Adoption: August 26, 1998.

July 14, 1998

Terrence Stapleton
for Carole J. Washburn
Secretary

NEW SECTION

WAC 480-09-530 Petitions for enforcement of interconnection agreements. (1) **Petitions for enforcement.** A telecommunications company that is party to an interconnection agreement with another telecommunications company may petition under this rule for enforcement of the agreement.

(a) **What the petition must contain.** Each petition for enforcement must contain the following elements:

(i) A statement, including specific facts, demonstrating that the parties engaged in good faith negotiations to resolve the disagreement, and that despite those negotiations the parties failed to resolve the issue.

(ii) A copy of the provision of the interconnection agreement that the petitioner contends is not being complied with.

(iii) A description of facts demonstrating failure to comply with the agreement. The description must be supported by one or more affidavits, declarations or other sworn statements, made by persons having personal knowledge of the relevant facts.

(b) **How to serve the petition.** The petitioner must serve the petition for enforcement on the responding party on the same day the petition is filed with the commission. For purposes of this section, service must be effected on:

(i) The responding party's authorized representative, attorney of record or designated agent for service of process;

(ii) The responding party's representatives with whom the petitioner conducted the negotiations addressed in (a)(i) of this subsection; and

(iii) All parties designated in the interconnection agreement to receive notices.

If the petitioner chooses to serve the respondent by mail, a copy of the petition for enforcement and all supporting documents must be faxed or hand-delivered to the responding party's attorney of record, or if the party has no attorney, to the responding party, on the same day as filed with the commission.

(c) At least ten days prior to filing a petition for enforcement at the commission, the petitioner must give written

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notice to the respondent that the petitioner intends to file a petition for enforcement. The notice must identify the contract provision the petitioner alleges was violated, and the exact behavior or failure to act that petitioner alleges violates the agreement. Service of the written notice must be accomplished in the same manner as set forth in (b) of this subsection. The petitioner must include a copy of this notice with its petition for enforcement.

(2) **Answering a petition.** The respondent may answer the petition. The respondent waives the opportunity to present any matter that is not raised in the answer, except that the answer may be amended under subsection (3) of this section.

(a) **Contents of the answer.** The answer to a petition for enforcement must respond to each allegation of failure to comply with the terms of the interconnection agreement, stating relevant facts. Any facts relied upon must be supported by affidavits, declarations or other sworn statements by persons having personal knowledge of the facts.

(b) **Filing and service of the answer.** The respondent must file the answer with the commission and serve it on the petitioner within five business days after service of the petition for enforcement. Service must be accomplished so that a copy of the response to the petition for enforcement and all supporting documents must reach the petitioner's attorney, or the person who signed the petition, if petitioner has no attorney, on the same day the answer is filed with the commission. If the respondent chooses to serve the petitioner by mail, a copy of the petition for enforcement and all supporting documents must be delivered to the person identified above on the same day as filed with the commission.

(3) **Amendment of petition and answer.** In the discretion of the presiding officer, for good cause shown, and to avoid substantial prejudice to the responding party that is not caused by the fault of the responding party, the responding party may amend its answer to the petition. In the discretion of the presiding officer, either party may amend its petition or answer to conform to the evidence presented during the proceeding. In determining whether to permit amendment of the petition or answer to conform to the evidence, the presiding officer may refer to, but is not bound by, civil rule 15(b).

(4) **Prehearing conference.** The commission will conduct a prehearing conference regarding each petition that is filed for enforcement of an interconnection agreement.

(a) **Schedule; mandatory attendance.** The presiding officer will within ten days after the petition is filed schedule a prehearing conference. Both the petitioner and the respondent must attend the prehearing conference. At the discretion of the presiding officer, the prehearing conference may be conducted by telephone.

(b) **Procedural determination.** At the prehearing conference, the presiding officer will determine, based on the petition and the answer, together with all supporting documents filed by the parties and the parties' oral statements, whether the issues raised in the petition can be determined on the pleadings and submissions, without further proceedings. The presiding officer may ask the parties to submit written briefs on the issues of the petition.

(c) **Means of obtaining additional information.** If the presiding officer determines that further proceedings are nec-

essary, the presiding officer will establish a schedule for receiving additional facts or evidence and may, in the discretion of the presiding officer, schedule an enforcement hearing session to explore the facts and issues raised in the petition and the answer. If shown to be essential to the requesting party, the presiding officer may, in his or her discretion, allow discovery pursuant to WAC 480-09-480. To comply with the time lines of this rule, the presiding officer may alter the discovery time lines in WAC 480-09-480.

(5) **Appointment and powers of the presiding officer; recommended or final decision.** The commission will appoint an administrative law judge to preside over the proceeding. The commissioners may, in their discretion, preside over the enforcement proceeding.

(a) In any proceeding to enforce the provisions of an interconnection agreement, the presiding officer has broad discretion to conduct the proceeding in a manner that best suits the nature of the petition, including, but not limited to, converting the proceeding into a complaint proceeding under RCW 80.04.110. The presiding officer may limit the record in the enforcement proceeding to written submissions or may schedule an enforcement hearing session. The presiding officer may limit the number of exhibits and witnesses and the time for their presentation.

(b) The enforcement proceeding concludes when the presiding officer has sufficient information to resolve the issues. The presiding officer shall serve a recommended decision on the parties within seventy-five days of the date the petition for enforcement was filed, or twenty-one days after the last hearing session or submission, whichever is later. The recommended decision is subject to the approval of the commission. If the commission presides over the enforcement proceeding, it may serve a final decision within the time requirements applicable to recommended decisions.

(6) **Review of the recommended decision.** After the presiding officer serves the recommended decision, the commission will hear the arguments or comments of the parties regarding the recommended decision at a regular or special open public meeting. The parties may submit written comments to the commission prior to the meeting on a schedule established in the initial order. The commission may, in its discretion, request a presentation at the meeting from commission staff. The commission will conduct this session within ten days after the date of the recommended decision, or as soon thereafter as the commissioners' schedules permit.

(7) **Commission decision on petition for enforcement.**

(a) **Extent of commission discretion.** The commission will serve a final decision on the parties, in the form of a commission order, resolving the issues. The commission may adopt, modify or reject all or part of the recommended decision.

(b) **Time of service of order.** The commission will serve its order on the petition for enforcement no later than ninety days of the date the petition is filed or fifteen days after the meeting at which it reviews the recommended decision, whichever is later. The commission may extend this time for lack of resources or for other good cause.

(c) **Petition for reconsideration.** Within ten days after the commission serves its order on the petition for enforcement, the parties may petition for reconsideration. A petition

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for reconsideration is denied unless the commission by separate decision grants it within ten days after the petition for reconsideration is filed, or such longer time established by the commission secretary. If a party files a petition for reconsideration, the commission may, in its discretion, request that an answer be filed or call for additional comments, briefing, evidence, or argument from the parties. Filing a petition for reconsideration of the order does not stay the effect of the order.

(d) **Failure to comply with the order.** Any party who fails to comply with the terms of the commission's final order on petition for enforcement is subject to penalties under RCW 80.04.380 and any other penalties or sanctions as provided by law. A company against whom a penalty is assessed may challenge the penalty or the facts on which it is based, or seek mitigation of the penalty, pursuant to pertinent law and commission rules.

(8) **Nature of the proceeding.** Because the commission is exercising authority consistent with federal law when resolving disputes involving interconnection agreements, the proceeding is in the nature of an arbitration and is not an adjudicative proceeding under the Washington Administrative Procedure Act, chapter 34.05 RCW.

WSR 98-15-098
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed July 17, 1998, 10:21 a.m.]

Original Notice.

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

Title of Rule: Deferred compensation plan amendments of 1998.

Purpose: To amend the department's rules implementing the deferred compensation law codified in chapters 41.04 and 41.50 RCW in order to make those rules consistent with the 1998 amendments to chapter 41.50 RCW and to recent amendments to the Internal Revenue Code Section 457.

Statutory Authority for Adoption: RCW 41.50.050.

Statute Being Implemented: Chapter 116, Laws of 1998, all sections.

Summary: The proposed rules amend the department's deferred compensation plan rules so that they conform to the amendments to the deferred compensation law enacted in chapter 116, Laws of 1998 and to recent amendments to Section 457 of the Internal Revenue Code.

Reasons Supporting Proposal: To bring the department's rules into conformity with chapters 41.04 and 41.50 RCW as amended by chapter 116, Laws of 1998.

Name of Agency Personnel Responsible for Drafting: Elyette Weinstein, 1025 East Union Avenue, Olympia, WA 98504-8380, (360) 709-4747; Implementation and Enforcement: Anne Holdren, 2600 Martin Way, Olympia, WA 98504-0931, (360) 753-1829.

Name of Proponent: Department of Retirement Systems, governmental.

Rule is necessary because of federal law, [Title 26 U.S.C. Sec. 457 Internal Revenue Code].

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule is an amendment to provisions of chapters 415-512, 415-524, 415-544, 415-548, and 415-560 WAC governing the department's implementation of the deferred compensation plan law codified in chapters 41.04 and 41.50 RCW. The amendments are necessary to reflect the changes to chapters 41.04 and 41.50 RCW enacted in chapter 116, Laws of 1998. The statutes were amended to bring them into compliance with recent changes to the Internal Revenue Code. The purpose of the rule and its anticipated effects are to bring the rules into conformity with the statutes as amended to ensure that there are no conflicts between the rules and the authorizing statutes.

Proposal Changes the Following Existing Rules: WAC 415-512-075, 415-548-010, and 415-560-010 conform to the Internal Revenue Code's requirement that deferred compensation plans hold funds in trust for the exclusive benefit of employees. The State Investment Board is trustee.

WAC 415-512-015 clarifies that transfers between 457 plans of different political subdivisions are allowed.

WAC 415-512-020 and 415-512-030 conform to the Internal Revenue Code requirement that deferral limits be indexed.

WAC 415-512-050 removes limits on the number of times per year participants can change deferral or investment options.

WAC 415-512-070 limits resumption of deferrals to a request for cessation due to an unforeseeable emergency payment.

WAC 415-512-080 adds documentation requirements if a member chooses to designate a trust as beneficiary.

WAC 415-512-090 adds changes that apply to participants who, after separating from service, are again hired by an employer and reenrolled in the plan before payment is scheduled to begin. Requirements for minor beneficiary payments.

WAC 415-512-110 minimum amounts needed to establish lump sum or annuity payout. Amended to comply with Internal Revenue Code.

WAC 415-524-010 clarifies that a divorce does not amount to a hardship withdrawal in conformance with Internal Revenue Code.

WAC 415-544-010 regarding nonassignability of the right to receive deferrals is rewritten in clear language.

New WAC 415-512-095 clarifies how and when the plan will honor domestic relations orders.

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

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. DRS is not one of the agencies that RCW 34.05.328 applies to. DRS does not opt to voluntarily bring itself within the coverage of that statute.

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Hearing Location: Boardroom, 2nd Floor, 1025 East Union Avenue, Olympia, WA 98504-8380, on August 26, 1998, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Elyette Weinstein by August 26, TDD (360) 586-5450, or (360) 709-4747.

Submit Written Comments to: Elyette Weinstein, P.O. Box 48380, Olympia, WA 98504-8380, fax (360) 753-3166, by August 12, 1998.

Date of Intended Adoption: September 14, 1998.

July 17, 1998

Elyette M. Weinstein
Rules Coordinator

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-512-015 Plan to plan transfers. (1) Transfers to the plan following a change in employment. If a participant was formerly a participant in an eligible (~~(state)~~) deferred compensation plan (within the meaning of Section 457 of the code and ~~(the)~~ its regulations (~~(thereunder)~~), ~~((and if such a plan))~~ which permits the direct transfer of the participant's interest (~~(therein)~~) to ~~(the)~~ another plan, then the transferee plan shall accept assets representing the value of such interest (~~(; provided,)~~). However, the department may require in its sole discretion that some or all of such interest be transferred in cash or its equivalent. Such amount shall be held, accounted for, administered, and otherwise treated in the same manner as compensation deferred by the participant under the plan except that:

(a) Only the amount, if any, transferred to the plan which was deferred under the transferor plan in the taxable year when transfer occurs shall be treated as compensation deferred under the plan in such year.

(b) Such amount shall remain subject to, and shall be administered in accordance with, any irrevocable elections made under the transferor plan with respect to such amount.

(2) Transfers from the plan following a change in employment. The only rollovers or transfers allowable under Section 457 of the Internal Revenue Code are from one eligible Section 457 plan to another eligible Section 457 plan.

If a participant, prior to making a final election under WAC 415-512-090(2) regarding the method of payment, accepts employment with an employer who offers an eligible Section 457 plan, and the participant becomes a participant in that plan, then accumulated deferrals may, at the election of the participant and after written notice to the department, be transferred to the other plan, provided that plan provides for the acceptance of such transfers.

(3) Transfers by employees of participating political subdivisions. Transfers of funds by an employee of a participating political subdivision are allowed to and from other IRC Section 457 plans maintained by the political subdivision, but only if the other plan also allows transfers to and from its plan and the participant has not made an irrevocable payout election relating to either plan.

(4) Application for transfer. If the conditions in subsection(~~s~~) (1) (~~and~~), (2), or (3) of this section are met and the participant wishes to transfer his/her account, he/she shall

complete (~~any~~) an application form and/or other documents as may be required by the department.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-512-020 Deferral (~~(limitation)~~) limit. (1) Except as provided in WAC 415-512-030, relating to catch-up, the maximum that may be deferred under the plan for any taxable year of a participant shall not exceed the lesser of seven thousand five hundred dollars indexed to the extent authorized in Section 457 of the Internal Revenue Code (dollar deferral limit) or thirty-three and one-third percent of the participant's includible compensation, each reduced:

(a) By any amount excludable from the participant's gross income for that taxable year under Section 403(b) of the Internal Revenue Code; and

(b) By any amount:

(i) Excluded from gross income under Section 402 (e)(3) or 402 (h)(1)(B) of the Internal Revenue Code (relating to a participant's elective deferrals to simplified employee pensions) for that taxable year;

(ii) For which a deduction is allowable for that taxable year by reason of a contribution to an organization described in Section 501 (c)(18) of the Internal Revenue Code (relating to pension trusts created before June 25, 1959, forming part of a plan for payment of benefits under a pension plan funded only by contributions of employees); or

(iii) Which is deferred by a participant under Section 401(k) of the Internal Revenue Code (relating to qualified cash or deferred arrangement) during that taxable year; and

(c) By any amount the participant contributes to any other Section 457 of the Internal Revenue Code plan (relating to deferred compensation plan(s)) during the taxable year.

(2) "Includible compensation" for purposes of this section means includible compensation as defined in Section 457 (e)(5) of the Internal Revenue Code and as further defined by Treasury Department Regulation 1.457-2 (e)(2) interpreting that section, and is determined without regard to community property laws. Includible compensation for a taxable year includes only compensation from the employer that is attributable to services performed for the employer and that is includible in the participant's gross income for the taxable year for federal income tax purposes. Accordingly, a participant's includible compensation for a taxable year does not include an amount payable by the employer that is excludable from the employee's gross income under:

(a) Section 457 of the Internal Revenue Code;

(b) Section 403(b) of the Internal Revenue Code (relating to annuity contracts purchased by Section 501 (c)(3) of the Internal Revenue Code organizations or public schools);

(c) Section 105(d) of the Internal Revenue Code (relating to wage continuation plans);

(d) Section 911 of the Internal Revenue Code (relating to citizens or residents of the United States living abroad);

(e) Section 402 (e)(3) or 402 (h)(1)(B) or 402(k) of the Internal Revenue Code (relating to simplified employee pensions);

(f) Section 501 (c)(18) of the Internal Revenue Code (relating to certain pension trusts); or

(g) Section 401(k) of the Internal Revenue Code (relating to qualified cash or deferred arrangements).

(3) In computing includible compensation, total gross compensation as shown on state earnings statements must be reduced by:

(a) Section 414(h) of the Internal Revenue Code, before tax contributions to retirement plans (including those described in RCW 41.04.440, 41.04.445, and 41.04.450); and

(b) Any Section 125 of the Internal Revenue Code contributions to cafeteria plans (including those which include such items as dependent care salary reduction plans) before excluding the items listed in subsection (2)(a) through (g) of this section.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-512-030 Catch-up provision. For one or more of the participant's last three taxable years ending before attaining normal retirement age under the plan, the maximum deferral shall be the lesser of:

(1) Fifteen thousand dollars for the taxable year, reduced in the same manner as the ~~((seven thousand five hundred))~~ dollar(s) limitation) deferral limit is reduced in WAC 415-512-020(1); or

(2) The sum of:

(a) The ~~((limitations))~~ limits established for purposes of WAC 415-512-020 of the plan for the taxable year (determined without regard to this section), plus

(b) So much of the ~~((limitation))~~ limit established under WAC 415-512-020 for taxable years before the taxable year as has not theretofore been used under WAC 415-512-020 or 415-512-030. A prior taxable year shall be taken into account only if:

(i) It begins after December 31, 1978;

(ii) The participant was eligible to participate in the plan during all or any portion of the taxable year, and;

(iii) Compensation deferred (if any) under the plan during the taxable year was subject to a maximum ~~((limitation))~~ limit (as established under WAC 415-512-020).

A prior taxable year includes a taxable year in which the participant was eligible to participate in an eligible plan sponsored by another entity. In no event can the participant elect to have the catch-up provision apply more than once whether or not the full catch-up had been utilized.

"Normal retirement age," as used in chapters 415-501 through 415-568 WAC, means the range of ages:

Ending not later than age seventy and one-half; and

Beginning not earlier than the earliest age at which the participant has the right to retire under a state authorized pension for which the participant is eligible without consent of the state and under which the participant will receive immediate retirement benefits without actuarial adjustment due to retirement prior to some later specified age in a state authorized pension plan.

This catch-up provision may not be used in the year in which the participant attains age seventy and one-half, and may not be used in any year thereafter.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-512-050 Modification of deferral or investment option(s). A participant may change his/her deferral or investment option(s) ~~((not more than four times in any calendar year))~~ by executing a participation agreement. Changes in the amount of deferral must equal at least ten dollars or more per month. (Beneficiaries entitled to receive accumulated deferrals may also change investment options ~~((not more than four times per year)).~~)

~~((An increase (or an increase and a change in investment option(s) which are effective the same date) shall not be counted as a change. Only a decrease in the amount of deferral, a transfer, or a change in investment option(s) not accompanied by an increase, shall be counted as a change.~~

~~Any combination of a decrease, a transfer, or a change in investment option(s) effective the same date, shall be considered one change.~~

~~A change (whether counted as such or not) shall be effective for any calendar month only if the participant signs a new participation agreement and it is approved by the department or its designee before the beginning of that calendar month. All participation agreements indicating changes in investment option(s) must be filed with the department no later than fifteen days prior to the established pay date for which the change will occur. The department reserves the right to defer the effective date of any change.)~~ A change in the deferral amount shall be effective for any calendar month only if the participant signs a new participation agreement prior to the earning period for which the change is requested. All participation agreements indicating changes in investment option(s) and transfer request forms indicating a transfer from one investment option to another must be filed with the department no later than twelve days prior to the established pay date for which the change will occur.

During the payout process, the department may periodically liquidate mutual fund shares in amounts necessary to meet distribution requirements for a six-month period.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-512-070 Suspension and reinstatement of deferrals. Suspension. A participant may at any time direct that deferrals under the participant's participation agreement cease by completing the proper form and filing it with the department no later than the last day of the payroll period prior to the payroll period during which the deferrals are to cease; however, accumulated deferrals shall only be paid as provided in WAC 415-512-080 through 415-512-110.

Reinstatement. A participant who has directed the cessation of deferrals ~~as part of an unforeseeable emergency payment request~~ may resume deferrals ((for any calendar month commencing no)) by executing a new participation agreement to defer compensation. The deferrals cannot resume sooner than six months after ((such)) deferrals ceased ((by executing a new participation agreement to defer compensation)). Deferrals will begin the month immediately following the month that the participation agreement is signed. The six-month waiting period shall not apply to participants

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who are on leave without pay as discussed in WAC 415-528-010.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-512-075 Investment options. Each participant shall designate on his/her participation agreement the investment option(s) in which he/she wishes to have funds invested. The investment option(s) shall be selected from those options made available for this purpose from time to time by the ~~((employee retirement benefits board, in its sole discretion))~~ state investment board after consultation with the employee retirement benefits board.

The ~~((employee retirement benefits))~~ state investment board may make available as options for investment:

(1) A fixed rate investment or pool of investments including deposits with a credit union, savings and loan association, mutual savings bank and fixed annuities;

(2) Specified mutual fund shares, shares of an investment company, or variable annuities; or

(3) Fixed or variable life insurance, or other options permitted by law ~~((and selected by the employee retirement benefits board))~~. In the event that a selected investment option experiences a loss, the participant's benefits payable hereunder shall likewise reflect a loss, rather than income, for the period.

Nothing in this section shall require the ~~((employer))~~ state investment board or the department as plan administrator to invest any amount in the investments selected ~~((and whether or not the employer so invests, no participant shall have any right, title, or interest in the amounts deferred or assets so invested))~~. The state investment board may open, change or close investment options according to its investment policy.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-512-080 Designation of beneficiaries. Each participant shall have the right to designate a beneficiary or beneficiaries to receive accumulated deferrals in the event of the participant's death. If no such designation is in effect on a participant's death, the beneficiary shall be the surviving spouse. If there be no such surviving spouse, then the beneficiary shall be the participant's estate. A participant may change his/her beneficiary designation at any time by filing a change of beneficiary form with the department. A participant may also change his/her beneficiary designation by completing the beneficiary designation portion of a participation agreement form.

The participant may name:

(1) A designated organization or person (including without limitation his/her unborn or later adopted children). If unborn or later adopted children are to be included, the designation must so indicate. The date of birth must be furnished for any living person who is named ~~((and who is under the age of eighteen))~~ as a beneficiary.

(2) His or her estate.

(3) A trust which is in existence, or which is to be established under the participant's last will. For an existing trust, the participant must provide ~~((the name of the trust and the date it was established))~~ a copy of the trust document and the name, address, and telephone number of the current trustee, and the tax identification number.

The participant may name contingent beneficiaries in addition to primary beneficiaries.

AMENDATORY SECTION (Amending WSR 97-05-009, filed 2/7/97, effective 3/10/97)

WAC 415-512-090 Elections regarding distribution.

Each participant (or in the event of death, each beneficiary other than an organization, an estate, or a trust) shall elect when his/her payout will begin and the payout period.

(1) Election ~~((regarding time of payment))~~ preconditions and irrevocability. The election regarding the date when payment will begin shall be made when a participant separates from service (or dies having separated from service and having previously elected when payment will begin).

Once made, the election regarding when payout will begin is irrevocable as to the participant or beneficiary making the election, unless:

(a) The participant or beneficiary, more than thirty days prior to the elected date payment is to begin, elects to postpone the original date. Only one such postponement is allowed; or

(b) The participant, after separating from service is again hired by the employer and, before the originally elected date payment is to begin, reenrolls in the plan.

~~((The))~~ (2) Timing of election ((regarding when payment will begin:)).

(a) ~~((By))~~ A participant who separates from service other than by reason of death, must ((be made not)) make an election no later than sixty days after separation from service. Payment may begin on the central payroll date nearest the twenty-fifth day of the month following the month in which an election is filed with the department on forms provided for that purpose, and payment must begin within the time prescribed by WAC 415-512-110;

(b) ~~((By))~~ A beneficiary, other than an organization, estate or trust, where the participant was not already receiving payments, must ((be made not)) make an election no later than sixty days after the participant's death. Payment may begin on the central payroll date nearest the twenty-fifth day of the month following the month in which an election is filed with the department on forms provided for that purpose, and payment must begin within the time prescribed by WAC 415-512-110. The plan will not distribute to a minor beneficiary if it does not receive proof that the minor has either:

(i) A court-appointed guardian; or

(ii) A custodian whom the participant during his or her lifetime designated in a beneficiary designation, will, trust or other instrument exercising a power of appointment, followed in substance by the words: "As custodian for (name of minor) under the Washington Uniform Transfers to Minors Act."

Where a legal guardianship is not obtained, and where the participant has not previously named a custodian under

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the Washington Uniform Transfers to Minors Act as described above, or if such custodian has been named but dies or is unable or unwilling to serve, the plan may, following the expiration of one hundred eighty days after the participant's death, request a court of competent jurisdiction to establish a custodianship under the Washington Uniform Transfers to Minors Act, chapter 11.114 RCW, irrespective of the amount at issue.

Once a custodianship has been established either by the participant's prior designation or by court order, the plan will transfer the funds in the deceased participant's account to the named custodian.

A transfer may be made only for one minor, and only one person may be the custodian, as set forth in the Washington Uniform Transfers to Minors Act. Written confirmation of delivery by the custodian constitutes a sufficient receipt and discharge of the plan for the deceased participant's account balance transferred to the custodian.

The custodian will have sixty days after the date of transfer to make an election regarding the payout period and when the payout will begin under this section.

~~((2))~~ (3) Election regarding method of payment. The participant (or beneficiary) who makes an election regarding the date payment will begin, may also elect the period over which payments will be made. The payout period election may be made either at the time he/she elects a beginning date for payout or at any time not later than sixty days prior to the date payout is to begin. Once having made this election, the participant (or beneficiary, other than an organization, estate, or trust) may change the payout period election not later than thirty days prior to the date payout is to begin. Such a beneficiary may also make this election where the participant was already receiving payments but, as provided in WAC 415-512-110 (3)(a), must receive distribution at least as rapidly as it was being distributed to the participant. Such a beneficiary must make the payout period election not later than sixty days after the death of the participant and payout will be suspended following the participant's death until the beneficiary either makes a payout period election or begins receiving payment as provided in subsection ~~((4))~~ (5) of this section. Provided, if the participant was receiving payout in the form of an annuity contract, then the successor's right shall be limited by the terms of that contract.

~~((3))~~ (4) How elections are made. A participant or beneficiary makes elections allowed under this section by completing and filing applicable payment request forms with the department. Only a court-appointed guardian may elect between a monthly and a lump sum benefit on behalf of the minor.

~~((4))~~ (5) Consequences in absence of a timely election regarding time of payment. Absent a timely election regarding when payout is to begin, payout will begin on the central payroll date nearest the twenty-fifth day of the month following the month in which the election period ends, and will be made, in a lump sum if the accumulated deferrals as of the end of the election period are less than twenty-five thousand dollars or, if the accumulated deferrals are twenty-five thousand dollars or more, in equal monthly installments over a period of one hundred twenty months or such lesser period:

(a) As may be necessary under the minimum payout requirements of Section 457 (d)(2)(B)(i)(I) of the Internal Revenue Code, requiring amounts to be paid not later than as determined under Section 401 (a)(9)(G) of the Internal Revenue Code; or

(b) As may be necessary under Section 457 (d)(2)(B)(i)(II) of the Internal Revenue Code, requiring amounts not distributed to the participant during his/her life to be distributed at least as rapidly as they were being distributed as of the participant's death.

~~((5))~~ (6) Effects of certain employment changes. Transfers from the plan are allowed in the circumstances described in WAC 415-512-015(2).

~~((6))~~ (7) Consequences in absence of a timely election regarding method of payment. In the absence of a timely election regarding the period of time over which payment will be made, payment will be made in the manner described in subsection ~~((4))~~ (5) of this section.

~~((7))~~ (8) Payment to an organization, estate, or trust. Any amount payable to an organization, estate, or trust shall be paid in a lump sum as prescribed in WAC 415-512-110(3).

NEW SECTION

WAC 415-512-095 Domestic relations orders. (1) Domestic relation orders, which establish a right of the non-participant to a portion of a participant's account after the participant separates from service, will be honored at the discretion of the department:

(a) Only if the plan participant is eligible for, or is in actual payout status; and

(b) Based upon the capabilities of the deferred compensation program recordkeeping system.

(2) The plan will honor domestic relation orders by either:

(a) Recognizing that there is a lien against the plan's assets (provided the order establishes a fixed or determinable future amount to be paid); or

(b) Establishing a separate account for the nonparticipant spouse.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-512-110 Distribution of deferrals. (1) General rule. Assuming a timely election is allowed and has been made pursuant to WAC 415-512-090, payment will be made in at least annual, substantially nonincreasing amounts. Payments are also subject to the limitations in subsections (2) through ~~((5))~~ (7) of this section.

(2) Distribution to participant. A participant must either:

(a) Receive his/her entire interest prior to the ~~((latest))~~ later of:

(i) The April 1st immediately following the close of the calendar year in which the participant attains age seventy and one-half; or

(ii) The April 1st immediately following the close of the calendar year in which the participant separates from service with the employer; or

(b) Begin receiving his/her interest not later than the time specified in (a) of this subsection and receive it over a period not longer than ~~((either))~~ one of the following:

- (i) The life of the participant;
- (ii) The life of the participant and a beneficiary designated by the participant;
- (iii) The life expectancy of the participant; or
- (iv) The life expectancy of the participant and a designated beneficiary.

Payment must be sufficiently rapid to satisfy the requirements of Section 457 (d)(2)(B)(i)(I) and Section 401 (a)(9)(G) of the Internal Revenue Code. ~~((Provided, that until tables are issued by the Secretary of the Treasury, if provision is made for the payment of a portion of the benefits to a beneficiary, the amount payable to the participant actuarially must exceed two thirds of the maximum amount payable to the participant had no provision been made for payments to the beneficiary (determined as of the commencement of the distribution-))~~

Once payments to a participant begin, the participant may accelerate the payment schedule only in the event of an unforeseeable emergency (and subject to the provisions of WAC 415-524-010 regarding such emergencies).

(3) Distribution to beneficiaries.

(a) When distribution begins prior to the participant's death, then payout must be made at least as rapidly as it was being made to the participant. When the beneficiary is an organization, estate or trust, then payment will be payable in a lump sum on the twenty-fifth day of the second month following the participant's death.

(b) When distribution does not begin prior to the participant's death, and is to be made:

- (i) To an organization, estate or trust, then payment will be payable in a lump sum on the twenty-fifth day of the second month following the participant's death;
- (ii) To a living beneficiary designated by the participant other than the participant's surviving spouse, and, by election, not to begin within one year of the participant's death, then payment must be made within five years of the participant's death. The plan will not distribute to a minor beneficiary if it does not receive proof that the minor has either:

(A) A court-appointed guardian; or

(B) A custodian whom the participant during his or her lifetime designated in a beneficiary designation, will, trust or other instrument exercising a power of appointment, followed in substance by the words: "As custodian for (name of minor) under the Washington Uniform Transfers to Minors Act." See WAC 415-512-090 (2)(b);

(iii) To a living beneficiary designated by the participant other than the participant's surviving spouse, and, by election, beginning within one year of the participant's death, then payment must be made within fifteen years of the participant's death. The plan will not distribute to a minor beneficiary if it does not receive proof that the minor has either:

(A) A court-appointed guardian; or

(B) A custodian whom the participant during his or her lifetime designated in a beneficiary designation, will, trust or other instrument exercising a power of appointment, followed in substance by the words: "As custodian for

(name of minor) under the Washington Uniform Transfers to Minors Act." See WAC 415-512-090 (2)(b);

(iv) To the participant's surviving spouse, whether as designated beneficiary, or by default, then payment must begin prior to the April 1st immediately following the ~~((later))~~ latter of the close of the plan year in which the participant would have attained age seventy and one-half or, if later, the year in which the participant separated from service~~((, and))~~. Payment may be made over the lifetime of the surviving spouse or over a period not longer than the life expectancy of the surviving spouse.

(4) For purposes of this section, life expectancies will be computed by use of the expected return multiples in Treasury Department Regulation 1.72-9 or, if distribution is to be effected through a contract issued by an insurance company, by use of the mortality tables of such company. ~~((Where payment is being made over the joint lives of the participant and the participant's surviving spouse, the life expectancy of the participant and the participant's surviving spouse may be recalculated annually-))~~

(5) The minimum payment amount (not including any amount paid out from an annuity) is fifty dollars per month (if payments are made monthly) and six hundred dollars per year (if payments are made annually).

(6) The minimum amount to establish a payout annuity administered by the department and paid monthly is one hundred thousand dollars. The minimum amount for an annuity paid quarterly is twenty-five thousand dollars.

(7) Notwithstanding anything in this plan to the contrary, distributions from the plan will be made in compliance with the minimum distribution rules of Section 457 (d)(2) of the Internal Revenue Code, and in compliance with Treasury Department Regulations issued under Sections 401 (a)(9) and 457 (d)(2) of the Internal Revenue Code.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-524-010 Unforeseeable emergency. (1) Payout request. Notwithstanding any other provisions in plan chapters 415-501 through 415-568 WAC, in the event of an unforeseeable emergency, a participant (or a beneficiary entitled to accumulated deferrals) may request the department to pay out all or a portion of accumulated deferrals. If the application for payment is approved by the department, payment will be made within sixty days following such an approval. The amount paid shall be limited strictly to that amount reasonably necessary to satisfy the emergency need.

For purposes of this plan, an unforeseeable emergency shall be severe financial hardship to the participant resulting from:

- (a) A sudden and unexpected illness or accident of the participant or of a dependent (as defined in Section 152(a) of the Internal Revenue Code) of the participant,
- (b) Loss of the participant's property due to casualty, or
- (c) Other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant. The circumstances that will constitute an unforeseeable emergency will depend upon the facts of each

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case, but, in any case, payment shall not be made to the extent that such hardship is or may be relieved:

(i) Through reimbursement or compensation by insurance or otherwise;

(ii) By liquidation of the participant's assets, to the extent liquidation of such assets would not itself cause severe financial hardship; or

(iii) By cessation of deferrals under the plan.

Examples of what shall not be considered to be unforeseeable emergencies include the need to send a participant's child to college or the desire to purchase a home.

A divorce does not constitute an "unforeseeable emergency" or "severe financial hardship."

(2) Applications for review. All applications for review of decisions on requests for pay out of accumulated deferrals due to an unforeseeable emergency shall follow the procedure established in WAC 415-08-015.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-544-010 Accumulated deferrals not assignable. ~~((It is agreed that neither the participant, nor the participant's beneficiary or beneficiaries, nor any other designee, shall have any right to commute, sell, assign, transfer, or otherwise convey the right to receive any payments hereunder, which payments and right thereto are expressly declared to be nonassignable and nontransferable; and in the event of attempt to assign or transfer, the employer shall have no further liability hereunder, nor shall any unpaid accumulated deferrals be subject to attachment, garnishment or execution, or be transferable by operation of law in event of bankruptcy, insolvency, except to the extent otherwise required by law.)) Neither the participant, nor the participant's beneficiary or beneficiaries, nor any other designee, has any right to sell, assign, transfer, or otherwise convey the right to receive any payments under the plan. These payments and right thereto are nonassignable and nontransferable. Unpaid accumulated deferrals are not subject to attachment, garnishment, or execution and are not transferable by operation of law in event of bankruptcy or insolvency, except to the extent otherwise required by law. In the event of any attempt to assign or transfer, the state investment board and the department will have no liability.~~

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-548-010 Plan assets. ~~(1) All ((amounts of compensation deferred under the plan, all property and rights to property (including rights as a beneficiary of a contract providing life insurance protection) purchased with such amounts, and all income attributable to such amounts, property or rights to property shall remain (until paid or made available to the participant or the participant's beneficiary or beneficiaries under the plan) solely the property and rights of the employer, (without being restricted to the benefits under the plan) and shall be subject only to the claims of general creditors of the employer)) moneys in the deferred compensation principal account, all property and rights purchased~~

therewith, and all income attributable thereto, shall be held in trust for the exclusive benefit of the state deferred compensation plan's participants and their beneficiaries. Under RCW 41.50.780(4) and chapter 43.33A RCW, the state investment board is made trustee of state deferred compensation plan assets.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-560-010 Investment responsibility. ~~((The employer and department may, but are not required to, invest funds held pursuant to participation agreements between participants and the employer in accordance with the requests made by each participant. The department shall retain the right to approve or disapprove such investment requests.)) Any action by the department in investing funds, or by the ((department or employee retirement benefits)) state investment board approving of any such investment of funds, shall not be considered to be either an endorsement or guarantee of any investment, nor shall it be considered to attest to the financial soundness or the suitability of any investment for the purpose of meeting future obligations.~~

WSR 98-15-100

PROPOSED RULES

CEMETERY BOARD

[Filed July 17, 1998, 10:46 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-11-039.

Title of Rule: Fees.

Purpose: To amend WAC 98-70-010 to bring Cemetery Board revenues into line with expenditures.

Statutory Authority for Adoption: RCW 68.05.105.

Statute Being Implemented: Title 68 RCW.

Summary: This amendment will allow the Cemetery Board to raise its application and renewal fees by 4.18 percent in 1999 as allowed by statute in order to bring its revenues more closely into line with its expenditures.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jon Donnellan, Department of Licensing, 405 Black Lake Boulevard, Olympia, (360) 586-4905.

Name of Proponent: Cemetery Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 98-70-010 provides for application and renewal fees for the certificate of authority to operate a cemetery, crematory license or endorsement, prearrangement sales license, exemption from prearrangement sales license, and the cremated remains disposition permit or endorsement. This amendment will provide a 4.18 percent increase in all fees as allowed under Initiative 601.

Proposal Changes the Following Existing Rules: Increases application and renewal fees by 4.18 percent.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These fee increases are permitted by Initiative 601.

RCW 34.05.328 does not apply to this rule adoption. Department of Licensing is exempt from this statute.

Hearing Location: Department of Licensing, Conference Room #1, 405 Black Lake Boulevard, Olympia, WA 98504, on September 9, 1998, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Jon Donnellan by telephone TDD (360) 586-2788, or (360) 586-4905.

Submit Written Comments to: Jon Donnellan, Administrator, Funeral and Cemetery Unit, P.O. Box 9012, Olympia, WA 98507-9012, (360) 586-4905.

Date of Intended Adoption: September 9, 1998.

July 15, 1998

Jon Donnellan
Administrator

AMENDATORY SECTION (Amending WSR 97-23-010, filed 11/7/97, effective 12/8/97)

WAC 98-70-010 Fees. The following fees shall be charged by the department of licensing:

Title of Fee	Fee
Certificate of authority	
Application	((\$260.00)) <u>\$270.87</u>
Renewal	((3.99)) <u>4.06</u>
Charge per each interment, entombment and inurnment during preceding calendar year	
Crematory license/endorsement	
Application	((104.00)) <u>108.35</u>
Renewal	
((Fifty two dollars)) <u>Fifty-four dollars and seventeen cents</u> plus ((fifty two)) <u>fifty-four cents per cremation performed during the preceding calendar year</u>	
Prearrangement sales license	
Application	((104.00)) <u>108.35</u>
Renewal	((52.00)) <u>54.17</u>
Exemption from prearrangement sales license	
Application	((52.00)) <u>54.17</u>

Renewal	((26.00)) <u>27.09</u>
Cremated remains disposition permit or endorsement	
Application	((52.00)) <u>54.17</u>
Renewal	((26.00)) <u>27.09</u>

WSR 98-15-101

WITHDRAWAL OF PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

[Filed July 17, 1998, 10:47 a.m.]

Please withdraw WAC 388-86-095 Physicians services, which was proposed for repeal on June 16, 1998, under WSR 98-13-082. This rule was included in the list in error.

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 98-15-103

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Adult Services Administration)

[Filed July 17, 1998, 10:51 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-03-077.

Title of Rule: Public process for determination of rates.

Purpose: To establish a public process for determining nursing facility Medicaid payment rates when there is a change in rate methodology, in compliance with 42 U.S.C. 1396a (a)(13)(A), as amended by the 1997 Balanced Budget Act, Sec. 4711.

Statutory Authority for Adoption: RCW 74.08.090 and 74.46.800.

Statute Being Implemented: 42 U.S.C. 1396a (a)(13)(A) (SSA, Sec. 1902 (a)(13)(A)).

Summary: Describes the process the department has adopted to make changes to its nursing facility payment rate methodology, allowing interested parties to make comments.

Reasons Supporting Proposal: It is required by federal law that states have such a public process. Failure to have or follow such a process may result in the loss of federal funds.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert Gray, P.O. Box 45600, Olympia, WA, (360) 493-2588.

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

Rule is necessary because of federal law, 42 U.S.C. 1396a (a)(13)(A).

Explanation of Rule, its Purpose, and Anticipated Effects: The rule establishes a public process for making

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changes to the Medicaid nursing facility payment rate methodology. Its purpose is to comply with a new federal law requiring states to have such a process (1997 Balanced Budget Act, Sec. 4711). The effect will be to obligate the department to follow the process described, and failure to follow it could result in the invalidation of changes or loss of some federal funding for the Medicaid program.

Proposal Changes the Following Existing Rules: It adds a rule setting forth the process which must be followed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes are unlikely to have any financial impact on nursing facilities or other businesses.

RCW 34.05.328 does not apply to this rule adoption. This rule does not meet the criteria of a "significant legislative rule" under RCW 34.05.328(5).

Hearing Location: Lacey Government Center, 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on August 25, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by August 14, 1998, TDD (360) 902-8324, or (360) 902-7540.

Submit Written Comments to: Paige Wall, Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 902-8292, by August 25, 1998.

Date of Intended Adoption: No sooner than August 26, 1998.

July 16, 1998

Edith M. Rice, Chief
Office of Legal Affairs

NEW SECTION

WAC 388-96-718 Public process for determination of rates. (1) The purpose of this section is to describe the manner in which the department will comply with the federal Balanced Budget Act of 1997, Section 4711(a)(1), codified at 42 U.S.C. 1396a(a)(13)(A).

(2) For all material changes to the methodology for determining nursing facility Medicaid payment rates occurring after October 1, 1997, and requiring a Title XIX state plan amendment to be submitted to and approved by the Health Care Financing Administration under applicable federal laws, the department shall follow the following public process:

(a) The proposed estimated initial payment rates, the proposed new methodologies for determining the payment rates, and the underlying justifications shall be published. Publication shall be:

(i) In the Washington State Register; or

(ii) In the Seattle Times and Spokane Spokesman Review newspapers.

(b) The department shall maintain and update as needed a mailing list of all individuals and organizations wishing to receive notice of changes to the nursing facility Medicaid payment rate methodology, and all materials submitted for publication shall be sent postage prepaid by regular mail to such individuals and organizations. Individuals and organizations wishing to receive notice shall notify the department in writing.

(c) Nursing facility providers, their associations, nursing facility Medicaid beneficiaries, representatives of providers or beneficiaries, and other concerned members of the public shall be given a reasonable opportunity to review and comment on the proposed estimated rates, methodologies and justifications. The period allowed for review and comment shall not be less than thirty calendar days after the date of the Washington State Register containing the published material or the date the published material has appeared in both the Seattle Times and the Spokane Spokesman Review.

(d) If, after receiving and considering all comments, the department decides to move ahead with any change to its nursing facility Medicaid payment rate methodology, it shall adopt needed further changes in response to comments, if any, and shall publish the final estimated initial rates, final rate determination methodologies and justifications. Publication shall be:

(i) In the Washington State Register; or

(ii) In the Seattle Times and Spokane Spokesman Review newspapers.

(e) Unless an earlier effective date is required by state or federal law, implementation of final changes in methodologies and commencement of the new rates shall not occur until final publication has occurred in the Register or in both designated newspapers. The department shall not be authorized to delay implementation of, or to alter, ignore or violate requirements of, state or federal laws in response to public process comments.

(f) Publication of proposed estimated initial payment rates and final estimated initial payment rates shall be deemed complete once the department has published:

(i) The statewide average proposed estimated initial payment rate weighted by adjusted Medicaid resident days for all Medicaid facilities from the most recent cost report year, including the change from the existing statewide average payment rate weighted by adjusted Medicaid resident days for all Medicaid facilities from the most recent cost report year; and

(ii) The statewide average final estimated initial payment rate weighted by adjusted Medicaid resident days for all Medicaid facilities from the most recent cost report year, including the change from the existing statewide average payment rate weighted by adjusted Medicaid resident days for all Medicaid facilities from the most recent cost report year.

(3) Nothing in this section shall be construed to prevent the department from commencing or completing the public process authorized by this section even though the proposed changes to the methodology for determining nursing facility Medicaid payment rates are awaiting federal approval, or are the subject of pending legislative, gubernatorial or rule-making action and are yet to be finalized in statute and/or regulation.

(4)(a) Neither a contractor nor any other interested person or organization shall challenge, in any administrative appeals or exception procedure established in rule by the department under the provisions of chapter 74.46 RCW, the adequacy or validity of the public process followed by the department in proposing or implementing a change to the payment rate methodology, regardless of whether the chal-

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lenge is brought to obtain a ruling on the merits or simply to make a record for subsequent judicial or other review. Such challenges shall be pursued only in courts of proper jurisdiction as may be provided by law.

(b) Any challenge to the public process followed by the department that is brought in the course of an administrative appeals or exception procedure shall be dismissed by the department or presiding officer, with prejudice to further administrative review and record-making, but without prejudice to judicial or other review as may be provided by law.

(5) The public process required and authorized by this section shall not apply to any change in the payment rate methodology that does not require a Title XIX state plan amendment under applicable federal laws, including but not limited to:

(a) Prospective or retrospective changes to nursing facility payment rates or to methodologies for establishing such rates ordered by a court or administrative tribunal, after exhaustion of all appeals by either party as may be authorized by law, or the expiration of time to appeal; or

(b) Changes to nursing facility payment rates for one or more facilities resulting from the application of authorized payment rate methodologies, principles or adjustments, including but not limited to: partial or phased-in termination or implementation of rate methodologies; scheduled cost rebasing; quarterly or other updates to reflect changes in case mix or other private or public source data used to establish rates; adjustments for inflation or economic trends and conditions; rate funding for capital improvements or new requirements imposed by the department; changes to resident-specific or exceptional care rates; and changes to correct errors or omissions by the contractor or the department.

WSR 98-15-110
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS

[Filed July 20, 1998, 9:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-07-102.

Title of Rule: WAC 460-44A-050 Isolated nonissuer transaction.

Purpose: To amend WAC 460-44A-050 to address the scope of the term "issuer isolated transaction" in addition to the term "nonissuer isolated transaction" currently defined in the rule.

Statutory Authority for Adoption: RCW 21.20.450.

Statute Being Implemented: Chapter 21.20 RCW.

Summary: This amendment is being proposed to more completely explain the scope of the isolated transaction exemption of RCW 21.20.320(1) relating to both issuer as well as nonissuer transactions. Only nonissuer isolated transactions are currently addressed by the rule.

Reasons Supporting Proposal: To incorporate information relating to isolated issuer transactions addressed in Secu-

rities Act Interpretive Statement 08 into a rule addressing isolated nonissuer transactions consistent with RCW 34.05.230.

Name of Agency Personnel Responsible for Drafting: Brad Ferber, 210 11th Avenue S.W., Olympia, WA, (360) 902-8760; Implementation: John L. Bley, 210 11th Avenue S.W., Olympia, WA, (360) 902-8760; and Enforcement: Deborah Bortner, 210 11th Avenue S.W., Olympia, WA, (360) 902-8760.

Name of Proponent: Department of Financial Institutions, Securities Division, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment is being proposed to more completely explain the scope of the isolated transaction exemption of RCW 21.20.320(1) relating to both issuer as well as nonissuer transactions. Only nonissuer isolated transactions are currently addressed by WAC 460-44A-050. Following review of this rule according to Executive Order 97-02, Securities Division staff has recommended that portions of Securities Act Interpretive Statement 08 relating to isolated issuer transactions be incorporated into the rule. This action is consistent with RCW 34.05.230, which provides that to better inform and involve the public, agencies are encouraged to convert long-standing interpretive and policy statements into rules.

Proposal Changes the Following Existing Rules: WAC 460-44A-050 will be amended to address isolated issuer transactions as well as isolated nonissuer transactions.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposal does not have economic impact on business.

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

Hearing Location: Department of Financial Institutions, Securities Division, Executive Conference Room, 300 General Administration Building, 210 11th Avenue S.W., Olympia, WA 98504, on August 25, 1998, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Darlene Christianson by August 21, 1998, TDD (360) 664-8126, or (360) 902-8760.

Submit Written Comments to: Brad Ferber, P.O. Box 9033, Olympia, WA 98507-9033, fax (360) 586-5068, by August 24, 1998.

Date of Intended Adoption: August 26, 1998.

July 17, 1998

John L. Bley

Director

AMENDATORY SECTION (Amending Order SD-130-77, filed 11/23/77)

WAC 460-44A-050 Isolated ((nonissuer)) transactions—Sales not involving a public offering. ((A nonissuer)) (1) An "isolated transaction" within the meaning of RCW 21.20.320(1) includes:

((+)) (a) Subject to the limitation of (b) of this subsection, any sale of an outstanding security by or on behalf of a person not in control of the issuer or controlled by the issuer

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or under common control with the issuer and not involving a distribution ~~(-A transaction is presumed to be "isolated" if):~~

(b) Any sale satisfying the requirements of (a) of this subsection that is effected through a broker-dealer, provided that it is one of not more than three such transactions effected by or through the broker-dealer in this state during the prior twelve months;

~~((2))~~ (c) Any sale of an outstanding security by or on behalf of a person in control of the issuer or controlled by the issuer or under common control with the issuer if the sale is effected pursuant to:

(i) Brokers' transactions in accordance with section 4(4) of the Securities Act of 1933 and Rule 144 thereunder; or

(ii) Any other transaction not effected through a broker-dealer and not involving a distribution, if the sale, including any other sales of securities of the same class during the prior twelve months inside or outside this state by the person, does not exceed 1% of the outstanding shares or units of that class;
or

(d) Any sale of a security by or on behalf of an issuer that is one of not more than three such transactions inside or outside this state during the prior twenty-four months.

An exemption provided by (a), (b), (c), or (d) of this subsection shall not be available for any offering made in a manner inconsistent with the limitations set forth in (a), (b), (c), or (d) of this subsection, respectively.

(2) "Sales not involving a public offering," within the meaning of RCW 21.20.320(1), is interpreted by the director in a manner consistent with section 4(2) of the federal Securities Act of 1933 and Securities and Exchange Commission Securities Act Release No. 4552.

Note: Pursuant to RCW 21.20.320(1), the director has promulgated a rule "establishing a nonpublic offering exemption" at WAC 460-44A-506.

WSR 98-15-111
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS

[Filed July 20, 1998, 9:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-07-101.

Title of Rule: WAC 460-32A-400 Sales in condominiums or units in a real estate development.

Purpose: To eliminate duplicated text of federal Securities and Exchange Commission Securities Act Release No. 5347 from the language of WAC 460-32A-400. The federal release will be incorporated by reference.

Statutory Authority for Adoption: RCW 21.20.450.

Statute Being Implemented: Chapter 21.20 RCW.

Summary: This proposal would eliminate from the text of WAC 460-32A-400 text of Release No. 5347. The release will continue to be referenced in the rule.

Reasons Supporting Proposal: To eliminate text of Securities and Exchange Commission Securities Act Release No. 5347 from the language of the rule.

Name of Agency Personnel Responsible for Drafting: Brad Ferber, 210 11th Avenue S.W., Olympia, WA, (360) 902-8760; Implementation: John L. Bley, 210 11th Avenue S.W., Olympia, WA (360) 902-8760; and Enforcement: Deborah Bortner, 210 11th Avenue S.W., Olympia, WA, (360) 902-8760.

Name of Proponent: Department of Financial Institutions, Securities Division, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 460-32A-400 incorporates the text of federal Securities and Exchange Commission Securities Act Release No. 5347, which addresses the applicability of the federal securities laws to the offer and sale of condominium units, or other units in a real estate development, coupled with an offer or agreement to perform or arrange certain rental or other services for the purchaser. The Securities Division concurs with the federal position, but proposes to reference the release in the rule rather than incorporating its text. Duplicated text is eliminated and the same result achieved by retaining by the reference to the federal release.

Proposal Changes the Following Existing Rules: During rules review according to Executive Order 97-02, Securities Division staff recognized that text contained in a federal release duplicated in a state rule. This text could be eliminated and the same result achieved by incorporation by reference to the release.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposal does not have economic impact on business.

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

Hearing Location: Department of Financial Institutions, Securities Division, Executive Conference Room, 300 General Administration Building, 210 11th Avenue S.W., Olympia, WA 98504, on August 25, 1998, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Darlene Christianson by August 21, 1998, TDD (360) 664-8126, or (360) 902-8760.

Submit Written Comments to: Brad Ferber, P.O. Box 9033, Olympia, WA 98507-9033, fax (360) 586-5068, by August 24, 1998.

Date of Intended Adoption: August 26, 1998.

July 17, 1998

John L. Bley

Director

AMENDATORY SECTION (Amending Order 304, filed 2/28/75, effective 4/1/75)

WAC 460-32A-400 Sales in condominiums or units in real estate development. The Washington Securities Act provides that its interpretation and administration be coordinated with related Federal regulations. In light of such policy and due to the relevance and importance of the Securities and

Exchange Commission Securities Act Release No. 5347, the division of securities hereby adopts Securities and Exchange Commission Securities Act Release No. 5347 ((, which is hereinafter set forth in its entirety)).

((“The Securities and Exchange Commission called attention to the applicability of the federal securities laws to the offer and sale of condominium units, or other units in a real estate development, coupled with an offer or agreement to perform or arrange certain rental or other services for the purchaser. The Commission noted that such offerings may involve the offering of a security in the form of an investment contract or a participation in a profit sharing arrangement within the meaning of the Securities Act of 1933 and the Securities Exchange Act of 1934. Where this is the case any offering of any such securities must comply with the registration and prospectus delivery requirements of the Securities Act, unless an exemption therefrom is available, and must comply with the anti fraud provisions of the Securities Act and the Securities Exchange Act and the regulations thereunder. In addition, persons engaged in the business of buying or selling investment contracts or participations in profit sharing agreements of this type as agents for others, or as principal for their own account, may be brokers or dealers [for a special exemption from the Washington Securities Act, see WAC 460-20A-235] within the meaning of the Securities Exchange Act, and therefore may be required to be registered as such with the Commission under the provisions of Section 15 of that Act.

The commission is aware that there is uncertainty about when offerings of condominiums and other types of similar units may be considered to be offerings of securities that should be registered pursuant to the Securities Act. The purpose of this release is to alert persons engaged in the business of building and selling condominiums and similar types of real estate developments to their responsibilities under the Securities Act and to provide guidelines for a determination of when an offering of condominiums or other units may be viewed as an offering of securities. Resort condominiums are one of the more common interests in real estate the offer of which may involve an offering of securities. However, other types of units that are part of a development or project present analogous questions under the federal securities laws. Although this release speaks in terms of condominiums, it applies to offerings of all types of units in real estate developments which have characteristics similar to those described herein.

“The offer of real estate as such, without any collateral arrangements with the seller or others, does not involve the offer of a security [for certain land located outside the state of Washington this is not true, see RCW 21.20.005(12)]. When the real estate is offered in conjunction with certain services, a security, in the form of an investment contract, may be present. The Supreme Court in *Securities and Exchange Commission v. W.J. Howey Co.*, 328 U.S. 293 (1946) set forth what has become a generally accepted definition of an investment contract.

“A contract, transaction or scheme whereby a person invests his money in a common enterprise and is led to expect profits solely from the efforts of the promoter or a third party, it being immaterial, whether the shares in the enterprise are

evidenced by formal certificates or by nominal interests in the physical assets employed in the enterprise.” (298)

“The *Howey* case involved the sale and operation of orange groves. The reasoning, however, is applicable to condominiums.

“As the Court noted in *Howey*, substance should not be disregarded for form, and the fundamental statutory policy of affording broad protection to investors should be heeded. Recent interpretations have indicated that the expected return need not be solely from the efforts of others, as the holding in *Howey* appears to indicate. For this reason, an investment contract may be present in situations where an investor is not wholly inactive, but even participates to a limited degree in the operations of the business. The ‘profits’ that the purchaser is led to expect may consist of revenues received from rental of the unit, these revenues and any tax benefits resulting from rental of the unit are the economic inducements held out to the purchaser.

“The existence of various kinds of collateral arrangements may cause an offering of condominium units to involve an offering of investment contracts or interests in a profit sharing agreement. The presence of such arrangements indicates that the offeror is offering an opportunity through which the purchaser may earn a return on his investment through the managerial efforts of the promoters or a third party in their operation of the enterprise.

“For example, some public offerings of condominium units involve rental pool arrangements. Typically, the rental pool is a device whereby the promoter or a third party undertakes to rent the unit on behalf of the actual owner during that period of time when the unit is not in use by the owner. The rents received and the expenses attributable to rental of all the units in the project are combined and the individual owner receives a ratable share of the rental proceeds regardless of whether his individual unit was actually rented. The offer of the unit together with the offer of an opportunity to participate in such a rental pool involves the offer of investment contracts which must be registered unless an exemption is available.

“Also, the condominium units may be offered with a contract or agreement that places restrictions, such as required use of an exclusive rental agent or limitations on the period of time the owner may occupy the unit, on the purchaser’s occupancy or rental of the property purchased. Such restrictions suggest that the purchaser is in fact investing in a business enterprise, the return from which will be substantially dependent on the success of the managerial efforts of other persons. In such cases, registration of the resulting investment contract would be required.

“In any situation where collateral arrangements are coupled with the offering of condominiums, whether or not specifically of the types discussed above, the manner of offering and economic inducements held out to the prospective purchaser play an important role in determining whether the offerings involve securities. In this connection see *Securities and Exchange Commission v. C.M. Joiner Leasing Corp.*, 320 U.S. 344 (1943). In *Joiner*, the Supreme Court also noted that:

~~"In enforcement of [the Securities Act], it is not inappropriate that promoters' offerings be judged as being what they were represented to be." (353)~~

~~"In other words, condominiums, coupled with rental arrangements, will be deemed to be securities if they are offered and sold through advertising, sales literature, promotional schemes or oral representations which emphasize the economic benefits to purchaser to be derived from the managerial efforts of the promoter, or a third party designated or arranged for by the promoter, in renting units.~~

~~"In summary, the offering of condominium units in conjunction with any one of the following will cause the offering to be viewed as an offering of securities in the form of investment contracts:~~

~~"1. The condominiums, with any rental arrangement or other similar service, are offered and sold with emphasis on the economic benefits to the purchaser to be derived from the managerial efforts of the promoter, or a third party designated or arranged for by the promoter, from rental of units."~~

~~"2. The offering of participation in a rental pool arrangement; and~~

~~"3. The offering of a rental or similar arrangement whereby the purchaser must hold his unit available for rental for any part of the year, must use an exclusive rental agent or is otherwise materially restricted in his occupancy or rental of his unit.~~

~~"In all of the above situations, investors protection requires the application of the federal securities laws.~~

~~"If the condominiums are not offered and sold with emphasis on the economic benefits to the purchaser to be derived from the managerial efforts of others, and assuming that no plan to avoid the registration requirements of the Securities Act is involved, an owner of a condominium unit may, after purchasing his unit, enter into a nonpooled rental arrangement with an agent not designated or required to be used as a condition to the purchase, whether or not such agent is affiliated with the offeror, without causing a sale of a security to be involved in the sale of the unit. Further, a continuing affiliation between the developers or promoters of a project and the project by reason of maintenance arrangements does not make the unit a security.~~

~~"In situations where commercial facilities are a part of the common elements of a residential project, no registration would be required under the investment contract theory where (a) the income from such facilities is used only to offset common area expenses and (b) the operation of such facilities is incidental to the project as a whole and are not established as a primary income source for the individual owners of a condominium or cooperative unit.~~

~~"The Commission recognizes the need for a degree of certainty in the real estate offering area and believes that the above guidelines will be helpful in assisting persons to comply with the securities laws. It is difficult, however, to anticipate the variety of arrangements that may accompany the offering of condominium projects. The Commission, therefore, would like to remind those engaged in the offering of condominiums or other interests in real estate with similar features that there may be situations, not referred to in this release, in which the offering of the interests constitutes an offering of securities. Whether an offering of securities is~~

~~involved necessarily depends on the facts and circumstances of each particular case. The staff of the Commission will be available to respond to written inquiries on such matters. [Request for interpretative opinions from the Washington Securities Division should follow the procedure set out in WAC 460-16A-020.]"~~

WSR 98-15-113
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed July 20, 1998, 1:30 p.m.]

By this memo, the Department of Social and Health Services is withdrawing WAC 388-428-0005 Treatment of confidential information, filed on May 19, 1998, as WSR 98-11-084.

Phil Wozniak, Director
 Administrative Services Division
 for Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

WSR 98-15-117
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF CORRECTIONS

(By the Code Reviser's Office)

[Filed July 21, 1998, 8:05 a.m.]

WAC 137-100-040, proposed by the Department of Corrections in WSR 98-02-074, appearing in issue 98-02 of the State Register, which was distributed on January 21, 1998, 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 98-15-130
PROPOSED RULES
GAMBLING COMMISSION

[Filed July 21, 1998, 4:20 p.m.]

Continuance of WSR 98-04-022.

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

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

Statutory Authority for Adoption: RCW 9.46.070 (4), (14), and (20).

Summary: See Purpose above.

Reasons Supporting Proposal: Activities of gambling service suppliers and representatives need to be regulated.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Lacey, (360) 438-7654 ext. 374; Implementa-

tion: Ben Bishop, Lacey, (360) 438-7640; and Enforcement: Sherri Winslow, Lacey, (360) 438-7640.

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: Inn at Gig Harbor, 3211 56th N.W., Gig Harbor, WA 98335, on August 14, 1998, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Susan Green by August 6, 1998, TDD (360) 438-7638, or (360) 438-7654 ext. 302.

Submit Written Comments to: Susan Arland, Mailstop 42400, Olympia, Washington 98504-2400, fax (360) 438-8652, by August 7, 1998.

Date of Intended Adoption: August 14, 1998.

July 21, 1998

Susan Arland

Public Information Officer

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

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

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

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

(b) Providing gambling related management services; or

(c) (~~Providing storage, counting services, and/or specialized recordkeeping services for the gambling activity (except general recordkeeping services provided by a professional accountant); or~~) Providing financing for purchases or leases of gambling equipment or for providing infrastructure that supports gambling operations for more than one licensee. For purposes of this section, financing by any bank, mutual savings bank, or credit union regulated by the department of financial institutions or any federally regulated commercial lending institution shall not be deemed as providing gambling related services;

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

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

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

~~((3) The term "gambling services supplier" does not include professional services, such as those provided by))~~

(b) Attorneys, accountants, and governmental affairs consultants((-)) whose primary business is providing professional services that are unrelated to the management or operation of gambling activities; and

(c) Individuals that only provide nonmanagement related recordkeeping services for punch board and pull-tab operators, when the combined total gross billings from such services does not exceed fifteen thousand dollars during any calendar year.

WSR 98-15-131

PROPOSED RULES

DEPARTMENT OF FINANCIAL INSTITUTIONS

[Filed July 22, 1998, 8:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-11-015.

Title of Rule: Notice filing requirements for federal covered securities.

Purpose: Adopt notice filing procedures for investments companies and municipal securities pursuant to section 12, chapter 15, Laws of 1998.

Other Identifying Information: New chapter 460-18A WAC.

Statutory Authority for Adoption: RCW 21.20.450, section 12, chapter 15, Laws of 1998.

Statute Being Implemented: Chapter 21.20 RCW.

Summary: Section 12 of SB 6202 (chapter 15, Laws of 1998) grants to the director the power to adopt rules governing the filing requirements for federal covered securities pursuant to the National Securities Markets Improvement Act of 1996 (NSMIA). The new sections proposed herein would establish notice filing requirements for investment company offerings and municipal securities offerings that are federal covered securities.

Reasons Supporting Proposal: NSMIA authorizes a state to impose notice filings and notice filing fees that are consistent with filings and fees that it imposed prior to NSMIA. Shortly after the passage of NSMIA, Washington adopted two policy statements to cover notice filings by investments companies and municipal offerings. These rules incorporate the provisions of those policy statements.

Name of Agency Personnel Responsible for Drafting: William M. Beatty, 210 11th Avenue S.W., Olympia, WA 98504, (360) 902-8760; Implementation: John L. Bley, 210 11th Avenue S.W., Olympia, WA 98504, (360) 902-8760; and Enforcement: Deborah R. Bortner, 210 11th Avenue S.W., Olympia, WA 98504, (360) 902-8760.

Name of Proponent: Department of Financial Institutions, Securities Division, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Section 12 of SB 6202 (chapter 15, Laws of 1998) grants to the director the power to adopt rules governing the filing requirements for federal covered securities pursuant to the National Securities Markets Improvement Act of 1996 (NSMIA). The new sections proposed herein would establish notice filing requirements for investment company offerings and municipal securities offerings that are federal covered securities. NSMIA authorizes a state to impose notice filings and notice filing fees that are consistent with filings and fees that it imposed prior to NSMIA. Shortly after the passage of NSMIA, Washington adopted two policy statements to cover notice filings by investments companies and municipal offerings. These rules incorporate the provisions of those policy statements.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposal does not impose additional costs on business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Financial Institutions is not one of the agencies listed in section 201.

Hearing Location: Department of Financial Institutions, Securities Division, Executive Conference Room, 210 11th Avenue S.W., Suite 300, Olympia, WA 98504, on August 25, 1998, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Darlene Christianson by August 21, 1998, TDD (360) 664-8126, or (360) 902-8760.

Submit Written Comments to: William M. Beatty, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, fax (360) 704-6923, e-mail bbeatty@dfi.wa.gov, by August 24, 1998.

Date of Intended Adoption: August 26, 1998.

July 3, 1998

John L. Bley

Director

Chapter 460-18A WAC

NOTICE FILINGS FOR FEDERAL COVERED SECURITIES

NEW SECTION

WAC 460-18A-010 Filing requirements—Investment companies other than closed-end companies. The following provisions apply to investment companies other than closed-end companies, as those terms are defined by the Investment Company Act of 1940:

(1) Initial filing. An investment company, other than a closed-end company, making an initial notice filing pursuant to RCW 21.20.327 (1)(a) shall submit the following prior to the initial offer in this state:

(a) A completed Form NF or other document identifying the filing;

(b) A consent to service of process on Form U-2; and

(c) The filing fee prescribed by RCW 21.20.340 (2)(b).

The initial notice filing is effective for twelve months.

(2) Renewal. An investment company, other than a closed-end company, complying with RCW 21.20.327 (1)(b) may renew the unsold portion of its initial notice filing for one additional twelve-month period by filing the following on or before the expiration of the initial notice filing:

(a) The renewal announcement provided by the division and/or a cover letter or other document requesting renewal;

(b) The renewal fee prescribed by RCW 21.20.340 (2)(b) to renew the unsold portion of securities for which a filing fee has previously been paid; and

(c) If the amount of securities subject to the notice filing is being increased, the fee prescribed by RCW 21.20.340 (2)(b) to cover the increase in the amount of securities to be offered.

(3) Renotification. An investment company, other than a closed-end company, complying with RCW 21.20.327 (1)(b) may continue its offering following the twelve-month renewal period specified in subsection (2) of this section by complying with subsection (1) of this section.

(4) Amendment. An investment company, other than a closed-end company, complying with RCW 21.20.327 (1)(b) may increase the amount of securities offered in this state by submitting an amended Form NF or other document describing the transaction and a fee calculated pursuant to RCW 21.20.340 (2)(b) to cover the increase in the amount of securities being offered.

NEW SECTION

WAC 460-18A-020 Filing requirements—Closed-end investment companies. The following provisions apply to closed-end investment companies as that term is defined by the Investment Company Act of 1940:

(1) Initial filing. A closed-end investment company making an initial notice filing pursuant to RCW 21.20.327 (1)(a) shall file the following prior to the initial offer in this state:

(a) A completed Form NF or other document identifying the filing;

(b) A consent to service of process on Form U-2; and

(c) The filing fee prescribed by RCW 21.20.340 (3)(b).

The initial notice filing is effective for twelve months.

(2) Renewal. For each additional twelve-month period in which the same offering is continued, a closed-end investment company complying with RCW 21.20.327 (1)(b) may renew the unsold portion of its notice filing by filing the following on or before the expiration of the notice filing:

(a) The renewal announcement provided by the division and/or a cover letter or other document requesting renewal;

(b) The renewal fee prescribed by RCW 21.20.340 (3)(b) to renew the unsold portion of securities for which a filing fee has previously been paid; and

(c) If the amount of securities subject to the notice filing is being increased, the fee prescribed by RCW 21.20.340 (3)(b) to cover the increase in the amount of securities to be offered.

(3) A closed-end investment company complying with RCW 21.20.327 (1)(b) may increase the amount of securities offered in this state by submitting an amended Form NF or other document describing the transaction and a fee calcu-

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lated pursuant to RCW 21.20.340 (3)(b) to cover the increase in the amount of securities being offered.

NEW SECTION

WAC 460-18A-030 Filing requirements—Investment companies—Name changes. The name, address, or telephone number of the investment company, applicant, or contact person may be changed by submitting a revised Form NF and the fee required by RCW 21.20.340 (5)(a).

NEW SECTION

WAC 460-18A-040 Investment companies—Report of sales. An investment company complying with RCW 21.20.327 (1)(c) shall file a report of sales of Form NF, together with the fee required by RCW 21.20.340 (5)(b), within sixty days of the annual expiration of its notice filing.

NEW SECTION

WAC 460-18A-100 Filing requirements—Municipal securities. The following provisions apply to an issuer of a covered security pursuant to sections 3 (a)(2) and 18 (b)(4)(C) of the Securities Act of 1933 and RCW 21.20.327(3), hereinafter referred to as a "municipal covered securities issuer":

(1) Initial notice filing. A municipal covered securities issuer making an initial filing shall submit the following prior to the initial offer in this state:

- (a) A completed municipal securities notice filing form or other document identifying the transaction;
- (b) A consent to service of process on Form U-2; and
- (c) The filing fee required by RCW 21.20.340 (1)(b).

Although not required, the issuer may wish to submit a copy of the official statement, or at least the first page, so that it is clear as to which offering the notification is being made. The initial notice filing is effective for one year.

(2) Renewal. A municipal covered securities issuer may renew the unsold portion of its initial notice filing for one additional twelve-month period by filing the following on or before the expiration of the initial notice filing:

- (a) The renewal announcement provided by the division and/or a cover letter or other document requesting renewal;
- (b) The renewal fee prescribed by RCW 21.20.340 (1)(b) to renew the unsold portion of securities for which a notice filing fee has previously been paid; and

(c) If the amount of securities subject to the notice filing is being increased, the fee prescribed by RCW 21.20.340 (1)(b) to cover the increase in the amount of securities to be offered.

(3) Renotification. A municipal covered securities issuer may continue its offering following the twelve-month renewal period specified in subsection (2) of this section by complying with subsection (1) of this section.

(4) Amendment. A municipal covered securities issuer may increase the amount of securities offered in this state by submitting an amended municipal securities notice filing form or other document describing the transaction and a fee

calculated pursuant to RCW 21.20.340 (1)(b) to cover the increase in the amount of securities being offered.

Note: Notice filing procedures for issuers of covered securities pursuant to sections 4(2) and 18(b)(4)(D) and rule 506 of the Securities Act of 1933 and RCW 21.20.327(2) may be found at WAC 460-44A-503.

WSR 98-15-138
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed July 22, 1998, 9:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-11-032.

Title of Rule: Adjusting functional eligibility standards for the Chore, COPES, and MPC programs. WAC 388-15-201 Long-term care functional eligibility, 388-15-209 Chore services—Eligibility, 388-15-222 Chore 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 Medicaid personal care services—Termination of services.

Purpose: The 1998 supplemental budget contains sufficient funding for FYI [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.

Other Identifying Information: The department already filed emergency rules to restore the prior eligibility, but is required to file permanent through regular adoption process.

Statutory Authority for Adoption: RCW 74.09.520, 74.09.530, 74.39A.110, [74.39A.]120, [74.39A.]130, sections 205 (1)(c) and 206(3), chapter 346, Laws of 1998, and RCW 74.39A.030.

Statute Being Implemented: RCW 74.09.520, 74.09.530, 74.39A.110, [74.39A.]120, [74.39A.]130, sections 205 (1)(c) and 206(3), chapter 346, Laws of 1998, and RCW 74.39A.030.

Reasons Supporting Proposal: The legislature provided additional funding in the 1999 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 rules are necessary to amend eligibility requirements to preclude 4000 clients from having their Chore, COPES, and MPC services terminated. State legislation.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kevin Krueger, Chief, Home and Community Programs, HCSA, AASA, Olympia, Washington, (360) 493-2578.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule is the permanent adoption of the emergency rule filed April 14, 1998, to restore eligibility criteria for Chore, COPES and Medicaid personal care which was in effect prior to the February 1998 amendments.

Proposal Changes the Following Existing Rules: Amends existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule reinstates previous rules which had been amended to meet the anticipated budget shortfall which did not occur. The amended rules did not have to be implemented. Those changes would have affected only the clients the Department of Social and Health Services serves. No business impact was effected due to these rule changes.

RCW 34.05.328 applies to this rule adoption. These rules meet the definition of a significant legislative rule but the Department of Social and Health Services is exempt from preparing a cost benefit analysis per RCW. RCW 34.05.328 (5)(b)(vii) exempts the Department of Social and Health Services rules that 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 August 25, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by August 14, 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 August 25, 1998.

Date of Intended Adoption: September 15, 1998.

July 21, 1998

Edith M. Rice, Chief
Office of Legal Affairs

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((-));

(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

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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 388-15-201)) 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) Be 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) Have an unmet need requiring 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) Have an unmet need requiring 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) Have an unmet need requiring 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; ~~((#))~~

(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 98-15-139
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed July 22, 1998, 9:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-23-080.

Title of Rule: WAC 388-310-0400, CURRENT TITLE: WorkFirst—Participation requirements, REVISED TITLE: What are the initial requirements of a WorkFirst participant? WAC 388-310-0500, CURRENT TITLE: WorkFirst—Job search, REVISED TITLE: What is included in WorkFirst job search? WAC 388-310-1000, CURRENT TITLE: WorkFirst—Vocational education, REVISED TITLE: What are the requirements for vocational education in WorkFirst? WAC 388-310-1600, CURRENT TITLE: WorkFirst—Determination of reasons for nonparticipation, REVISED TITLE: What are the WorkFirst participation requirements and what happens when a person does not participate? New section WAC 388-310-1050 What are the requirements for job skills training in WorkFirst?

Purpose: Revisions: WAC 388-310-0400, add definition to enhance administration of program; WAC 388-310-0500, revise definition of "preemployment training" as per executive direction; WAC 388-310-1000, clarify vocational education in WorkFirst; WAC 388-310-1600, define affordable and appropriate child care per federal regulation.

Addition: WAC 388-310-1050, clarify job skills training in WorkFirst.

Statutory Authority for Adoption: RCW 74.04.050 and 74.08.090.

Statute Being Implemented: RCW 74.08A.250, 74.08A.260, 74.08A.270.

Summary: Chapter 388-310 WAC went into effect November 1, 1997. These are housekeeping changes which will further the intent of the WorkFirst program, increase the department's ability to meet federal requirements for the proportion of the WorkFirst caseload that is active in work activities; and, add definitions that are required by federal regulations.

Reasons Supporting Proposal: Furthers the intent of the WorkFirst program as defined by the legislature.

Name of Agency Personnel Responsible for Drafting: Sharon Weston, Lacey Government Center, Mailstop 45480, 413-3248; Implementation and Enforcement: Cindy Mund, Lacey Government Center, Mailstop 45480, 413-3206.

Name of Proponent: Department of Social and Health Services, Economic Services Administration, WorkFirst Division, governmental.

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

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Explanation of Rule, its Purpose, and Anticipated Effects: This chapter implements parts of the Washington WorkFirst program.

The revised sections and the added section are written in question-and-answer format. We expect that regulated persons (WorkFirst participants) will understand the rules more easily.

Revised WAC 388-310-0400 contains a definition of "work" consistent with the intent of the WorkFirst program.

Revised WAC 388-310-0500 liberalizes the definition of "preemployment" training.

Revised WAC 388-310-1000 clarifies the definition of "vocational education" and which participants' vocational education programs will be supported by WorkFirst. "Job skills training" is removed from this section.

New WAC 388-310-1050 clarifies the definition of "job skills training" and which participants' job skills training programs will be supported by WorkFirst.

Revised WAC 388-310-1600 includes a definition of appropriate and affordable child care. This is required by federal regulation. Using this definition, we are able to distinguish inability to participate in WorkFirst activities from refusal to participate, based upon whether the person is able to find appropriate and affordable child care.

Proposal Changes the Following Existing Rules: Revised rules are written in question-and-answer format.

WAC 388-310-0400, adds definition of "work" to enhance administration of program; WAC 388-310-0500, revises definition of "preemployment training" as per executive direction; WAC 388-310-1000, clarifies vocational education in WorkFirst; and WAC 388-310-1600, adds definitions of affordable and appropriate child care per federal regulation.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Rules cover client service eligibility and delivery and do not affect business.

RCW 34.05.328 does not apply to this rule adoption. These rules do not meet the definition of a "significant legislative rule."

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on August 25, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by August 14, 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 August 25, 1998.

Date of Intended Adoption: No sooner than August 26, 1998.

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

AMENDATORY SECTION (Amending WSR 97-20-129, filed 10/1/97, effective 11/1/97)

**WAC 388-310-0400 WorkFirst—(~~Participation~~)
What are the initial requirements(~~(c)~~) of a WorkFirst par-**

icipant? (1) (~~Participants are required to participate in job search as the first WorkFirst activity unless temporarily deferred. The department may defer a participant from immediate job search if the participant is:~~

(a) Working twenty or more hours a week;

(b) Under the age of eighteen and has not completed high school or GED, or is under the age of twenty and is currently attending high school, or its equivalent full-time; or

(c) ~~Experiencing personal or family circumstances which prevents the person's immediate participation in job search.~~

(2) ~~Participants who are temporarily deferred must participate as part of their individual responsibility plan in an evaluation of their employability from the department.~~

(3) ~~The department may sanction a person who is nonexempt and who refuses to participate in the employability evaluation under WAC 388-310-0600.~~

(4) ~~Persons approved by the department or a tribal JOBS or tribal native employment works (NEW) program for post-secondary education or training program prior to the effective date of this chapter will be permitted to continue in the program under WorkFirst until June 30, 1998.)~~ WorkFirst requires you to look for a job as your first activity unless you are temporarily deferred from job search. Reasons that you may be temporarily deferred from looking for a job are:

(a) You work twenty or more hours a week; "work" means to engage in any legal, income generating activity which is taxable under the United States Tax Code or which would be taxable without a treaty between an Indian Nation and the United States; or

(b) You are under the age of eighteen and have not completed high school or GED; or

(c) You are under the age of twenty, and are attending high school or an equivalent full-time; or

(d) Your situation prevents you from looking for a job.

(2) If and when your job search is temporarily deferred, you must take part in an evaluation of your employability as part of your individual responsibility plan (IRP).

(3) You must follow instructions from your case manager and/or job service specialist as written in your IRP.

(4) If you do not participate in job search, or in the activities listed in your IRP during your temporary deferral from job search, and you do not have a good reason, the department will impose a financial penalty, sometimes called a sanction.

AMENDATORY SECTION (Amending WSR 97-20-129, filed 10/1/97, effective 11/1/97)

WAC 388-310-0500 WorkFirst—What is included in WorkFirst job search(~~(c)~~)? (1) (~~The purpose of~~) Job search is (~~to provide the participant with the~~) an opportunity to learn and use skills (~~and abilities needed~~) you need to find and keep (~~employment~~) a job. Job search (~~activities~~) may include:

(a) Classroom instruction (~~on job finding techniques and employer expectations~~); and/or

(b) Structured(~~, consistent, and monitored~~) efforts of the person to discover job openings and apply for available or potentially available employment; and

(c) ~~Self directed efforts of the person to find and obtain employment.~~

(2) ~~A participant must meet the published standards of job search participation established in each region or community service office or tribal work program.~~

(3) ~~A person's participation in job search must be of a quality and frequency that would clearly indicate that the individual is making sincere efforts to immediately obtain any employment.~~

(4) ~~Participants may participate in pre-employment training as an activity equivalent to seeking employment. Pre-employment training is job skills training which has a prior commitment from an employer to hire the trainee immediately upon completion of the training, at an hourly wage greater than the local entry level wage.~~

(5) ~~The department may not require a participant to participate in job search for more than twelve weeks without evaluating the person's employability under WAC 388 310-0600)) job search that helps you find job openings, complete applications, practice interviews and apply other skills and abilities with a job search specialist or a group of fellow job-seekers; and/or~~

(c) Pre-employment training, in which you learn skills you need for an identified entry level job that pays more than average entry level wages. Pre-employment training is an acceptable job search activity when an employer or industry commits to hiring or giving hiring preference to WorkFirst participants who successfully complete pre-employment training.

(2) WorkFirst job search is delivered by the employment security department.

(3) Job search may last up to twelve continuous weeks. Job search specialists will review your progress continuously, and by the end of the first four weeks, job search specialists will determine whether or not you should continue in job search. Job search will end when:

(a) You find a job; or

(b) You become exempt from WorkFirst requirements (see WAC 388-310-0300); or

(c) Your situation changes and you are temporarily deferred from continuing with job search (see WAC 388-310-0400); or

(d) Job search specialists have determined that you need additional skills and/or experience to find a job.

(4) At the end of the job search period, you will be referred back to your DSHS case manager for further action.

AMENDATORY SECTION (Amending WSR 97-20-129, filed 10/1/97, effective 11/1/97)

WAC 388-310-1000 WorkFirst—What are the requirements for vocational education (g) in WorkFirst?

(1) Vocational education is training ((in a specific occupation provided by a private college, technical school or community college licensed, authorized or certified by the state, or provided by a certified tribal college. It may not exceed twelve months in length with respect to any individual. It also includes job skills training in specific skills directly related to employment, and entrepreneurial training, offered through

community-based organizations, businesses and tribal governments.

(2) ~~The department may include vocational education in the individual responsibility plan when the person:~~

~~(a) Is employed twenty or more hours a week in subsidized or unsubsidized employment; or~~

~~(b) Lacks job skills presently in demand for entry level jobs in the local labor market and vocational education can provide such skills; and~~

~~(c) Would not be able to acquire the skills needed to obtain employment though available openings in:~~

~~(i) Work experience under WAC 388 310 1100; or~~

~~(ii) On the job training under WAC 388 300 1200.~~

~~(3) A nonexempt TANF/SFA recipient may participate in vocational education or other post secondary education or training activities not included on their individual responsibility plan on their own if the person is meeting WorkFirst hourly participation requirements)) leading to a degree or certificate in a specific occupation, offered by accredited public and private technical colleges and schools, community colleges, and tribal colleges.~~

(2) WorkFirst may include vocational education in your IRP if:

(a) You are working twenty or more hours a week; or

(b) You lack job skills that are in demand for entry level jobs in your area; and

(c) The vocational education program can provide the job skills that you need to qualify for entry level jobs in your area; and

(d) You could not learn the job skills that you need to qualify for entry level jobs in your area by participating in work experience or on-the-job training that is available to you.

(3) When vocational education is included in your IRP, WorkFirst will provide assistance with your costs, if you need assistance and it is not available from other sources. Child care subsidy is available through the working connections child care program.

NEW SECTION

WAC 388-310-1050 WorkFirst—What are the requirements for job skills training in WorkFirst? (1) Job skills training is training in specific skills directly related to employment, offered through community-based organizations, businesses, tribal governments, public and private community and technical colleges. Job skills training programs differ as to length, content, and sponsor.

(2) WorkFirst may include job skills training in your IRP if:

(a) You are working twenty or more hours a week; or

(b) You lack job skills that are in demand for entry level jobs in your area; and

(c) The job skills training program can provide the job skills that you need to qualify for entry level jobs in your area; and

(d) You could not learn the job skills that you need to qualify for entry level jobs in your area by participating in work experience or on-the-job training that is available to you.

(3) When job skills training is included in your IRP, WorkFirst will provide assistance with your costs, such as transportation and books, if you need assistance and it is not available from other sources. Child care subsidy is available through the working connections child care program.

AMENDATORY SECTION (Amending WSR 97-20-129, filed 10/1/97, effective 11/1/97)

WAC 388-310-1600 WorkFirst—(~~Determination of reasons for nonparticipation~~) What are the WorkFirst participation requirements and what happens when a person does not participate?. (1) (~~The following actions will be considered failure to participate in WorkFirst requirements:~~

(a) Refusal of a bona fide offer of employment;
(b) Failure to fulfill participation requirements of any components on the person's individual responsibility plan including not participating in:

(i) Drug and/or alcohol assessment;
(ii) Drug and/or alcohol treatment programs when assessed and determined as drug and/or alcohol dependent by a program certified and contracted through chapter 70.96A RCW;

(c) Failure to provide information requested by the department necessary for the development of the individual responsibility plan; or

(d) Not appearing for one or more appointments scheduled by the department or its agent.

(2) When a participant fails to participate in WorkFirst:

(a) The participants will have the opportunity to explain their nonparticipation; and

(b) The department will determine the adequacy of the reasons for nonparticipation. The department may make a determination based on available information if the participant does not provide information as requested.

(3) The department will determine that failure to participate is refusal, unless the participant provides evidence the nonparticipation is based on an inability to participate such as:

(a) Urgent personal or family circumstances interfering with participation which include but are not limited to:

(i) Threatened or actual family violence issues;
(ii) Eviction or immediate legal problems;
(iii) Injury or illness of the participant or of a family member which requires the presence of the participant; or
(iv) Death of a significant person in the participant's life.

(b) Breakdown in support services necessary for the person to participate and the person had no readily available alternative;

(c) The participant is unable to locate formal or informal child care for a child under the age of twelve years of whom they personally provide care and the department fails to provide such care;

(d) The participant is unable to locate other care services for an incapacitated individual living in the same home as a dependent child and the department fails to provide such care;

(e) ~~Determination by a licensed health professional that a physical, mental, or emotional condition is interfering with the required participation; or~~

(f) ~~The person did not receive a notice of appointment or program requirement))~~ To participate means that you give the department information requested from you, come to appointments made for you by the department and its agents, do all of the activities listed on your IRP and accept any bona fide offer of employment that you receive.

(2) If you do not participate, WorkFirst will ask you to explain why. The department will determine that:

(a) You had an adequate reason that you were not able to participate; or

(b) You did not have an adequate reason and that you refused to participate.

If the department is not able to contact you, the department will make this decision with the information already on hand.

(3) You have an adequate reason not to participate when you can show that an event made you unable to participate. Such events and circumstances include, but are not limited to:

(a) You, your child(ren), or other family member was ill;
(b) Support services (such as transportation) broke down and you could not make new arrangements right away;

(c) You could not locate care for your child(ren) under thirteen years that is affordable, appropriate, and within a reasonable distance;

"Affordable" means at or below your share of child care costs calculated by the working connections child care program.

"Appropriate" means licensed, certified or approved under state laws and regulations that apply to the type of child care you use, and that you may make your own choice among the child care options that are available in your area.

"Within a reasonable distance" means that you can reach the child care site without travel that exceeds normal expectations in your community.

(d) You could not locate other care services for an incapacitated individual living with you and your dependent child(ren);

(e) You have or had a physical, mental, or emotional condition, determined by a licensed health care professional, that made you unable to participate;

(f) A significant person in your life has died;

(g) You are threatened with or subjected to family violence;

(h) You have received an eviction notice or have another immediate legal problem;

(i) You did not receive notice of a request for information, an appointment or a requirement on your IRP.

(4) If you have an adequate reason that you did not participate, the department will revise your IRP to take your circumstances into account.

(5) If you do not have an adequate reason that you did not participate, the department will find that you refused to participate. The department will notify you that you will be sanctioned starting the next calendar month (see WAC 388-310-1700), unless you start to participate as required. The notice will include information on how to request a fair hear-

ing if you disagree with the department's decision that you refused to participate.

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 98-15-140
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed July 22, 1998, 9:51 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-20-120.

Title of Rule: WAC 388-86-005 Services available to recipients of categorically needy medical, 388-506-0620 SSI-related medical clients, and 388-511-1105 SSI-related eligibility requirements.

Purpose: To amend the medical assistance administration rules that have been partially incorporated into the proposed rules filed as WSR 98-11-084 in order to avoid duplication.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Summary: See Purpose above.

Reasons Supporting Proposal: If current rules are not amended at the same time the new rules, filed as WSR 98-11-084, become effective, then two sets of rules will exist in conflict with one another.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kevin Sullivan, Medical Assistance Administration, 617 8th S.E., Olympia, WA 98504, (360) 664-2314.

Name of Proponent: Department of Social and Health Services, Medical Assistance Administration, 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: WAC 388-86-005, subsections (1), (2), (8) and (11) are being incorporated into WAC 388-529-0100 and 388-529-0200. Subsection (4) is unnecessary because it is addressed in WAC 388-540-010. Subsections (6) and (7) are unnecessary because they are addressed in chapter 388-240 WAC.

WAC 388-506-0620, subsections (1) and (2) are being incorporated into WAC 388-408-0055; adding cross reference to WAC 388-408-0055 in new subsection (7).

WAC 388-511-1105, replacing outdated WAC cross reference with current one in subsection (4).

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not affect businesses.

RCW 34.05.328 does not apply to this rule adoption. These rules are not considered significant rules because they do not change existing policy.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on August 25, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by August 14, 1998, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Acting Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 902-8292, by August 25, 1998.

Date of Intended Adoption: September 1, 1998.

July 21, 1998

Edith M. Rice, Chief
Office of Legal Affairs

AMENDATORY SECTION (Amending Order 3913, #100246, filed 10/25/95, effective 10/28/95)

WAC 388-86-005 Limitations on services available to recipients of categorically needy medical assistance. (1) ~~((The department shall provide the following Title XIX mandatory services:~~

(a) ~~Early and periodic screening diagnosis and treatment services to an eligible person twenty years of age or under;~~

(b) ~~Family planning services;~~

(c) ~~Federally qualified health center services;~~

(d) ~~Home health agency services;~~

(e) ~~Inpatient and outpatient hospital care;~~

(f) ~~Medicare certified rural health clinic services;~~

(g) ~~Other laboratory and x ray services;~~

(h) ~~Skilled nursing home care;~~

(i) ~~Certified registered nurse practitioner services; and~~

(j) ~~Physicians' services in the office or away from the office as needed for necessary and essential medical care.~~

(2) ~~The department shall provide the following Title XIX optional services:~~

(a) ~~Anesthesia services;~~

(b) ~~Blood;~~

(c) ~~Chiropractic services;~~

(d) ~~Drugs and pharmaceutical supplies;~~

(e) ~~Eyeglasses and examination;~~

(f) ~~Hearing aids and examinations;~~

(g) ~~Hospice services;~~

(h) ~~Licensed midwife services;~~

(i) ~~Maternity support services;~~

(j) ~~Oxygen;~~

(k) ~~Personal care services;~~

(l) ~~Physical therapy services;~~

(m) ~~Private duty nursing services;~~

(n) ~~Surgical appliances;~~

(o) ~~Prosthetic devices and certain other aids to mobility;~~
and

(p) ~~Dental services.~~

(3) ~~The department shall limit~~) Organ transplants are limited to the cornea, heart, heart-lung, kidney, kidney-pancreas, liver, pancreas, single lung, and bone marrow.

~~((4)) The department shall provide treatment, dialysis, equipment, and supplies for acute and chronic nonfunctioning kidneys when the client is in the home, hospital, or kidney center as described under WAC 388-86-050(12).~~

~~((5)) The department shall provide:~~

~~(2) Detoxification and medical stabilization are provided to chemically using pregnant women in a hospital.~~

~~((6)) The department shall provide detoxification of acute alcohol or other drug intoxication only in a certified detoxification center or in a general hospital having a detoxification provider agreement with the department.~~

~~(7) The department shall provide outpatient chemical dependency treatment in programs qualified under chapter 275-25 WAC and certified under chapter 275-19 WAC or its successor.~~

~~((8)) For services available under the:~~

~~(a) Limited casualty program medically needy, see chapter 388-529 WAC; and~~

~~(b) Limited casualty program medically indigent, see chapter 388-529 WAC.~~

~~((9)) (3) The department may require a second opinion and/or consultation before the approval of any elective surgical procedure.~~

~~((10)) (4) The department ((shall)) designates diagnoses that may require surgical intervention:~~

~~(a) Performed in other than a hospital in-patient setting; and~~

~~(b) Requiring prior approval by the department for a hospital admission.~~

~~((11)) The department shall assure the availability of necessary transportation to and from medical services covered under a client's medical program.))~~

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

WAC 388-506-0620 SSI-related medical clients. (1) ~~((When determining program eligibility for medical care, the department shall limit relative financial responsibility from:~~

~~(a) The natural or adoptive parent or stepparent to a child seventeen years of age or younger living in the same household; and~~

~~(b) Spouse to spouse living in the same household.~~

~~(2) The department shall consider income and resources jointly for spouses when both spouses are SSI-related and live in the same household.~~

~~((3)) The department shall consider income and resources for an institutionalized:~~

~~(a) Child as described under WAC 388-513-1315(6); or~~

~~(b) Spouse as described under WAC 388-513-1330 and 388-513-1350.~~

~~((4)) (2) The department shall consider the income and resources of spouses as available to each other through the month in which the spouses stopped living together. See WAC 388-513-1330 and 388-513-1350 when a spouse is institutionalized.~~

~~((5)) (3) The department shall follow WAC 388-515-1505, 388-515-1510, or 388-515-1530 when one or both spouses are receiving community options program entry system (COPES), community alternatives program (CAP), out-~~

ward bound residential alternatives (OBRA), or coordinated community aids service alternatives (CASA) waived service program.

~~((6)) (4) The department shall allow a community spouse applying for medically needy a spousal deduction equal to the one-person medically needy income level (MNIL) less the spouse's income when:~~

~~(a) The community spouse is living in the same household as the spouse; and~~

~~(b) The spouse is receiving home-based and community-based services.~~

~~((7)) (5) The department shall consider income and resources separately as of the first day of the month following the month of separation when spouses stop living together because of placement into a congregate care facility (CCF), adult family home (AFH), adult residential rehabilitation center/adult residential treatment facility (ARRC/ARTF), or division of developmental disability-group home (DDD-GH) facility when:~~

~~(a) Only one spouse enters the facility;~~

~~(b) Both spouses enter the same facility but have separate rooms; or~~

~~(c) Both spouses enter separate facilities.~~

~~((8)) (6) The department shall consider income and resources jointly when spouses are placed in a CCF, AFH, ARRC/ARTF, or DDD-GH facility and share a room.~~

~~(7) See Wac 388-408-0055 for rules on medical assistance units that include SSI-related persons.~~

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

WAC 388-511-1105 SSI-related eligibility requirements. (1) For the purposes of SSI-related medical assistance, the client shall be:

(a) Sixty-five years of age or over; or

(b) Blind with:

(i) Central visual acuity of 20/200 or less in the better eye with the use of a correcting lens; or

(ii) A limitation in the fields of vision so the widest diameter of the visual field subtends an angle no greater than twenty degrees; or

(c) Disabled.

(i) Decisions on SSI-related disability are the responsibility of the medical assistance administration (MAA) and shall be subject to the authority of:

(A) Federal statutes and regulations codified at 42 U.S.C. Sec 1382c and 20 C.F.R. Parts 404 and 416, as amended; or

(B) Controlling federal court decisions which define the OASDI and SSI disability standard and determination process.

(ii) For MAA's purposes, "disabled" means unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which:

(A) Can be expected to result in death; or

(B) Has lasted or can be expected to last for a continuous period of not less than twelve months.

(iii) In the case of a child seventeen years of age or younger, if the child suffers from any medically determinable physical or mental impairment of comparable severity.

(2) When a person has applied for Title II or Title XVI benefits and the SSA has denied the person's application solely because of a failure to meet Title II and Title XVI blindness or disability criteria, the SSA denial shall be binding on the department, unless the applicant's:

(a) SSA denial is under appeals in the reconsideration stage, the SSA's administrative hearing process, or the SSA's appeals council; or

(b) Medical condition has changed since the SSA denial was issued.

(3) The ineligible spouse, of an SSI beneficiary receiving a state supplement payment for the ineligible spouse, shall not be eligible for Medicaid as noninstitutional categorically

needy. Such ineligible spouse may be eligible for noninstitutional medically needy.

(4) The client shall be resource eligible under WAC ((388-511-1110)) 388-478-0080 on the first day of the month to be eligible for any day or days of that month. The department shall make a resource determination of the first moment of the first day of the month. The department shall determine changes in the amount of a client's countable resources during a month do not affect eligibility or ineligibility for that month. Refer to WAC 388-513-1395 for an institutionalized client.

(5) The department shall consider a client under 1619(b) of the Social Security Act as eligible for SSI.

(6) The department shall provide a resident of Washington requiring medical assistance outside the United States care according to WAC 388-501-0180.

WSR 98-15-141
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Aging and Adult Services)

[Filed July 22, 1998, 9:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-06-066.

Title of Rule:

TITLE OF RULE	STATUTORY AUTHORITY FOR ADOPTION	STATUTE BEING IMPLEMENTED	PURPOSE, SUMMARY AND EFFECT
WAC 388-96-010 Definitions.	RCW 74.46.800	Chapter 74.46 RCW as amended by E2SHB 2935, (chapter 322, Laws of 1998).	Remove definitions that are in RCW 74.46.020. Add definitions not addressed by RCW 74.46.020 necessary to implement the nursing facility (NF) Medicaid payment system.
WAC 388-96-020 Prospective cost-related payment.	RCW 74.46.800	Chapter 74.46 RCW as amended by E2SHB 2935, (chapter 322, Laws of 1998).	Change "reimbursement" to "payment." Incorporate by reference all of chapter 74.46 RCW.
WAC 388-96-026 New contractors.	Chapter 74.46 RCW as amended by section 19, subsection (11) of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Chapter 74.46 RCW as amended by E2SHB 2935, (chapter 322, Laws of 1998).	Remove the requirement for a new contractor to submit a budget. Add concept of assignment.
WAC 388-96-108 Failure to submit final reports.	Section 3 and 4 of E2SHB 2935, (chapter 322, Laws of 1998) amending RCW 74.46.040 and 74.46.050.	Section 3 and 4 of E2SHB 2935, (chapter 322, Laws of 1998) amending RCW 74.46.040 and 74.46.050.	Removes requirements stated in the statute. Establishes penalties for noncompliance.

TITLE OF RULE	STATUTORY AUTHORITY FOR ADOPTION	STATUTE BEING IMPLEMENTED	PURPOSE, SUMMARY AND EFFECT
WAC 388-96-119 Reports—False information.	Chapter 74.46 RCW as amended by section 19, subsection (11) and section 31 of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Chapter 74.46 RCW as amended by section 19, subsection (11) and section 31 of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Corrects reference from repealed WAC 388-96-769 to section 31 of E2SHB 2935, (chapter 322, Laws of 1998).
WAC 388-96-122 Amendments to reports.	Section 19, subsection (11) and chapter 74.46 RCW as amended by section 31 of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Chapter 74.46 RCW as amended by section 31 of E2SHB 2935, (chapter 322, Laws of 1998).	Corrects reference from repealed WAC 388-96-769 to section 31 of E2SHB 2935, (chapter 322, Laws of 1998). Changes passive voice to active.
WAC 388-96-202 Scope of audit or department audit.	Chapter 74.46 RCW as amended by section 8 of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Chapter 74.46 RCW as amended by section 8 of E2SHB 2935, (chapter 322, Laws of 1998).	Implements new audit program in accordance with section 8.
WAC 388-96-218 Proposed, preliminary, and final settlements.	Chapter 74.46 RCW as amended by section 9 and 10 of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Chapter 74.46 RCW as amended by section 9 and 10 of E2SHB 2935, (chapter 322, Laws of 1998).	Implements new settlement rules. Identifies when a facility would be subject to forfeiture for being out of substantial compliance, or was providing substandard quality of care.
WAC 388-96-502 Indirect and overhead costs.	RCW 74.46.800	Chapter 74.46 RCW	Amended for clarity; no change to substance.
WAC 388-96-505 Offset of miscellaneous revenues.	RCW 74.46.800	RCW 74.46.200 and chapter 74.46 RCW as amended by E2SHB 2935, (chapter 322, Laws of 1998).	Amends the name of the rate components.
WAC 388-96-525 Education and training.	RCW 74.46.800	RCW 74.46.240	Clarifies that training reimbursed outside of the payment rate is unallowable.
WAC 388-96-530 What will be allowable compensation for owners, relatives, licensed administrator, assistant administrator and/or administrator in training?	RCW 74.46.800	RCW 74.46.250	Addresses aspects of compensation not covered in the RCW.
WAC 388-96-532 Does the contractor have to maintain time records?	RCW 74.46.800	RCW 74.46.250	Answers the question on whether time records are needed for relatives who work for the contractor.

TITLE OF RULE	STATUTORY AUTHORITY FOR ADOPTION	STATUTE BEING IMPLEMENTED	PURPOSE, SUMMARY AND EFFECT
WAC 388-96-535 Management agreements, management fees, and central office services.	RCW 74.46.800	RCW 74.46.280	Removes from the section the wording that replicates the RCW. Adds requirements for management agreements and the effect of acceptance.
WAC 388-96-536 Does the department limit the allowable compensation for an owner or relative of an owner?	RCW 74.46.800	RCW 74.46.250	Incorporates subsections from WAC 388-96-529, 388-96-531 and 388-96-533 that do not appear in RCW 74.46.250 Owner or relative compensation.
WAC 388-96-540 Will the department allow the cost of an administrator-in-training?	RCW 74.46.800	Chapter 74.46 RCW	Describes what is required to receive payment and how payment is to be made.
WAC 388-96-542 Home office or central office.	Chapter 74.46 RCW as amended by section 19, subsection (11) of E2SHB 2935, (chapter 322, Laws of 1998); RCW 74.46.270 and 74.46.800.	Chapter 74.46 RCW as amended by section 19, subsection (11) of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.270.	States when a home office or central office will be audited; identifies what costs may be allocated and where to report them, if allowable.
WAC 388-96-580 Operating leases of office equipment.	RCW 74.46.800	RCW 74.46.300	Identifies through what rate component costs will be paid; removes limit on computer leases; and states department will not pay for depreciation of leased office equipment.
WAC 388-96-585 Unallowable costs.	RCW 74.46.800	RCW 74.46.410	Removes subsections that repeat RCW; adds subsection (2) (f) making same party transactions that increase costs unallowable.
WAC 388-96-704 Prospective payment rates.	Chapter 74.46 RCW as amended by E2SHB 2935, (chapter 322, Laws of 1998).	Chapter 74.46 RCW as amended by E2SHB 2935, (chapter 322, Laws of 1998).	Changes reimbursement to payment.
WAC 388-96-708 Reinstatement of beds previously removed from service under chapter 70.38 RCW—Effect on prospective payment rate.	Section 19, subsection (11) of E2SHB 2935, (chapter 322, Laws of 1998).	Section 19, subsection (11) of E2SHB 2935, (chapter 322, Laws of 1998).	Describes the effect on the payment rate of bringing banked beds back on-line.
WAC 388-96-709 Prospective rate revisions—Reduction in licensed beds.	Chapter 74.46 RCW as amended by section 19, subsection (11) of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Chapter 74.46 RCW as amended by E2SHB 2935, (chapter 322, Laws of 1998).	Amends section to comply with E2SHB 2935 including identifying new rate components and reducing occupancy from ninety to eighty-five percent.
WAC 388-96-710 Prospective payment rate for new contractors.	Chapter 74.46 RCW as amended by section 19, subsection (11) of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Chapter 74.46 RCW as amended by E2SHB 2935, (chapter 322, Laws of 1998).	Amends section to comply with E2SHB 2935.

TITLE OF RULE	STATUTORY AUTHORITY FOR ADOPTION	STATUTE BEING IMPLEMENTED	PURPOSE, SUMMARY AND EFFECT
WAC 388-96-713 Rate determination.	RCW 74.46.800	Chapter 74.46 RCW as amended by E2SHB 2935, (chapter 322, Laws of 1998).	Amends sections to remove dates that are no longer applicable.
WAC 388-96-723 How often will the department compare the state-wide weighted average payment rate for all nursing facilities with the state-wide weighted average payment rate identified in the Biennial Appropriations Act?	Section 18 of E2SHB 2935, (chapter 322, Laws of 1998) to be codified as RCW 74.46.421; and RCW 74.46.800.	Section 18 of E2SHB 2935, (chapter 322, Laws of 1998) to be codified as RCW 74.46.421.	Answer the title question by stating monthly; and identifies when rate components will be reduced.
WAC 388-96-724 How much advance notice will a nursing facility receive of a rate reduction?	Section 18 of E2SHB 2935, (chapter 322, Laws of 1998) to be codified as RCW 74.46.421; and RCW 74.46.800.	Section 18 of E2SHB 2935, (chapter 322, Laws of 1998) to be codified as RCW 74.46.421.	States twenty-eight calendar days as the answer.
WAC 388-96-725 After the rate reductions, when will a nursing facility's rates return to their previous level?	Section 18 of E2SHB 2935, (chapter 322, Laws of 1998) to be codified as RCW 74.46.421; and RCW 74.46.800.	Section 18 of E2SHB 2935, (chapter 322, Laws of 1998) to be codified as RCW 74.46.421.	Informs that reductions taken under RCW 74.46.421 will not be reversed.
WAC 388-96-726 If a nursing facility's component rates are below the state-wide weighted average payment rate identified in the Biennial Appropriations Act, will the department reduce the facility's component rates when it makes a rate reduction under RCW 74.46.421?	Section 18 of E2SHB 2935, (chapter 322, Laws of 1998) to be codified as RCW 74.46.421; and RCW 74.46.800.	Section 18 of E2SHB 2935, (chapter 322, Laws of 1998) to be codified as RCW 74.46.421.	Answers the title question with a "yes."
WAC 388-96-728 How will the nursing facility's "hold harmless" direct care rate be determined?	Chapter 74.46 RCW as amended by section 25 of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Chapter 74.46 RCW as amended by section 25 of E2SHB 2935, (chapter 322, Laws of 1998).	Identifies the cost report year used to obtain allowable therapy costs and exceptional care offsets.
WAC 388-96-729 When will the department use the "hold harmless rate" to pay for direct care services?	Chapter 74.46 RCW as amended by section 25 of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Chapter 74.46 RCW as amended by section 25 of E2SHB 2935, (chapter 322, Laws of 1998).	States will use the higher between the direct care rate and the "hold harmless" rate.

PROPOSED

TITLE OF RULE	STATUTORY AUTHORITY FOR ADOPTION	STATUTE BEING IMPLEMENTED	PURPOSE, SUMMARY AND EFFECT
WAC 388-96-738 What default case mix group and weight must the department use for case mix grouping when there is no minimum data set resident assessment for a nursing facility resident?	Chapter 74.46 RCW as amended by section 22, 24, and 25 of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Chapter 74.46 RCW as amended by section 22, 24, and 25 of E2SHB 2935, (chapter 322, Laws of 1998).	Answers the title question by identifying the circumstance and the case mix group and weight.
WAC 388-96-739 How will the department determine which resident assessments are Medicaid resident assessments?	Chapter 74.46 RCW as amended by sections 22, 24, and 25 of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Chapter 74.46 RCW as amended by sections 22, 24, and 25 of E2SHB 2935, (chapter 322, Laws of 1998).	Answers the title question by stating that the payer source code on the minimum data set (MDS) will be used.
WAC 388-96-740 What will the department use as the Medicaid case mix index when a facility does not meet the ninety percent minimum data set (MDS) threshold as identified in chapter 74.46 RCW as amended by section 24 of E2SHB 2935 (chapter 322, Laws of 1998)?	Chapter 74.46 RCW as amended by sections 22, 24, and 25 of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Chapter 74.46 RCW as amended by sections 22, 24, and 25 of E2SHB 2935, (chapter 322, Laws of 1998).	Identifies from what quarter case mix index will be used.
WAC 388-96-741 When the nursing facility does not have facility average case mix indexes for the four quarters specified in chapter 74.46 RCW as amended by section 24 (7) of E2SHB 2935, (chapter 322, Laws of 1998) for determining the cost per case mix unit, what will the department use to determine the nursing facility's cost per case mix unit?	Chapter 74.46 RCW as amended by sections 22, 24, and 25 of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Chapter 74.46 RCW as amended by sections 22, 24, and 25 of E2SHB 2935, (chapter 322, Laws of 1998).	Identifies that the industry average or the facility's average case mix index will be used.
WAC 388-96-742 When will the department use licensed beds to compute the ninety percent minimum data set (MDS) threshold rather than a nursing facility's quarterly average census?	Chapter 74.46 RCW as amended by sections 22, 24, and 25 of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Chapter 74.46 RCW as amended by sections 22, 24, and 25 of E2SHB 2935, (chapter 322, Laws of 1998).	Answers when census exceeds the number of current licensed beds; or when a significant discrepancy between census and licensed beds exists.

TITLE OF RULE	STATUTORY AUTHORITY FOR ADOPTION	STATUTE BEING IMPLEMENTED	PURPOSE, SUMMARY AND EFFECT
WAC 388-96-744 How will the department set the therapy care rate and determine the median cost limit per unit of therapy?	Chapter 74.46 RCW as amended by section 26 of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Chapter 74.46 RCW as amended by section 26 of E2SHB 2935, (chapter 322, Laws of 1998).	Answers the title question by indicating if no units of therapy reported, the contractor will get 0 for a therapy care rate.
WAC 388-96-746 How much therapy consultant expense for each therapy type will the department allow to be added to the total allowable one-on-one therapy expense?	Chapter 74.46 RCW as amended by section 26 of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Chapter 74.46 RCW as amended by section 26 of E2SHB 2935, (chapter 322, Laws of 1998).	Gives formula for determining a reasonable therapy consulting expense.
WAC 388-96-747 Constructed, remodeled or expanded facilities.	Chapter 74.46 RCW as amended by section 19, subsection (12) of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Chapter 74.46 RCW as amended by section 19, subsection (12) of E2SHB 2935, (chapter 322, Laws of 1998).	Allows the department to increase a rate for capital improvements; and establishes conditions that the department will increase a rate for capital improvements.
WAC 388-96-757 Payment for veterans homes.	RCW 74.09.120 and 74.46.800.	RCW 74.09.120	Identifies that payment for veterans' homes will be determined in the same manner as all nursing homes.
WAC 388-96-760 Upper limits to reimbursement rate.	Chapter 74.46 RCW as amended by E2SHB 2935, (chapter 322, Laws of 1998); RCW 74.46.800 and RCW 74.09.120.	Chapter 74.46 RCW as amended E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.09.120	Prohibits the nursing facility to charge private pay residents less than they charge Medicaid residents.
WAC 388-96-776 Add-ons to the payment rate—Capital improvements.	Chapter 74.46 RCW as amended by section 19, subsection (12) of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	Chapter 74.46 RCW as amended by section 19, subsection (12) of E2SHB 2935, (chapter 322, Laws of 1998).	Identifies when a contractor may receive an add-on to its current payment rate for improving its nursing facility.
WAC 388-96-901 Disputes.	RCW 74.46.780 as amended by section 41 of E2SHB 2935, (chapter 322, Laws of 1998).	RCW 74.46.780 as amended by section 41 of E2SHB 2935, (chapter 322, Laws of 1998).	Identifies what actions of the department may be reviewed in an administrative hearing.
WAC 388-96-904 Administrative review—Adjudicative proceeding.	RCW 74.46.780 as amended by section 41 of E2SHB 2935, (chapter 322, Laws of 1998).	RCW 74.46.780 as amended by section 41 of E2SHB 2935, (chapter 322, Laws of 1998).	Identifies the who, how, when and where of obtaining a review of a department action.
WAC 388-96-905 Case mix accuracy review of MDS nursing facility resident assessments.	RCW 74.46.780 as amended by section 41 of E2SHB 2935, (chapter 322, Laws of 1998); and RCW 74.46.800.	RCW 74.46.780 as amended by section 41 of E2SHB 2935, (chapter 322, Laws of 1998).	Permits an abridged administrative review of an accuracy review of a nursing facility's MDSs.

REPEALED SECTIONS

REPEALED SECTIONS	REASON FOR REPEAL
WAC 388-96-023 Conditions of participation.	redundant
WAC 388-96-029 Change of ownership	redundant
WAC 388-96-032 Termination of contract.	redundant
WAC 388-96-101 Reports.	redundant
WAC 388-96-104 Due dates for reports.	redundant
WAC 388-96-110 Improperly completed or late reports.	redundant
WAC 388-96-113 Completing reports and maintaining records.	redundant
WAC 388-96-128 Requirements for retention of records by the contractor.	redundant
WAC 388-96-131 Requirement for retention of reports by the department.	redundant
WAC 388-96-134 Disclosure of nursing home reports.	redundant
WAC 388-96-204 Field audits.	Statute repealed
WAC 388-96-207 Preparation for audit by the contractor.	Statute repealed
WAC 388-96-210 Scope of field audits.	Statute repealed
WAC 388-96-213 Inadequate documentation.	redundant
WAC 388-96-220 Principles of settlement.	Statute repealed
WAC 388-96-221 Preliminary settlement.	Statute repealed
WAC 388-96-224 Final settlement.	Statute repealed
WAC 388-96-226 Shifting provisions.	Statute repealed
WAC 388-96-228 Cost savings.	Statute repealed
WAC 388-96-229 Procedures for overpayments and underpayments.	redundant
WAC 388-96-501 Allowable costs.	redundant
WAC 388-96-503 Substance prevails over form.	redundant
WAC 388-96-507 Costs of meeting standards.	Statute repealed
WAC 388-96-508 Travel expenses for members of trade association boards of directors.	No longer necessary
WAC 388-96-509 Boards of directors fees.	No longer necessary
WAC 388-96-513 Limit on costs to related organizations.	No longer necessary
WAC 388-96-521 Start-up costs.	redundant
WAC 388-96-523 Organization costs.	redundant
WAC 388-96-529 Total compensation—Owners, relatives, and certain administrative personnel.	redundant
WAC 388-96-531 Owner or relative compensation.	redundant
WAC 388-96-533 Maximum allowable compensation of certain administrative personnel.	redundant
WAC 388-96-543 Expense for construction interest.	redundant
WAC 388-96-555 Depreciation expense.	redundant
WAC 388-96-557 Depreciable assets.	redundant
WAC 388-96-567 Methods of depreciation.	redundant
WAC 388-96-569 Retirement of depreciable assets.	redundant
WAC 388-96-571 Handling of gains and losses upon retirement of depreciable assets settlement periods prior to 1/1/81 rata periods prior to 7/1/82.	redundant
WAC 388-96-573 Recovery of excess over straight-line depreciation.	No longer necessary
WAC 388-96-716 Cost areas or cost centers.	Statute repealed
WAC 388-96-717 Desk review adjustments.	redundant
WAC 388-96-719 Method of rate determination.	Statute repealed
WAC 388-96-722 Nursing services cost area rate.	Statute repealed
WAC 388-96-727 Food cost area rate.	Statute repealed
WAC 388-96-735 Administrative cost area rate.	Statute repealed

REASON FOR REPEAL

Statute repealed
 redundant
 redundant
 redundant
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 Statute repealed
 No longer necessary
 Statute repealed
 Statute repealed
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 Statute repealed
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REPEALED SECTIONS

- WAC 388-96-737 Operational cost area rate.
- WAC 388-96-745 Property cost area reimbursement rate.
- WAC 388-96-752 Documentation of leased assets.
- WAC 388-96-754 A contractor's return on investment.
- WAC 388-96-761 Home office, central office and other off-premises assets.
- WAC 388-96-763 Rates for recipients requiring exceptionally heavy care.
- WAC 388-96-764 Activities assistants.
- WAC 388-96-765 Ancillary care.
- WAC 388-96-768 Minimum wage.
- WAC 388-96-769 Adjustments required due to errors or omissions.
- WAC 388-96-774 Add-ons to the prospective rate—Staffing.
- WAC 388-96-778 Public disclosure or rate-setting methodology.
- WAC 388-96-801 Billing period.
- WAC 388-96-804 Billing procedures.
- WAC 388-96-807 Charges to patients.
- WAC 388-96-810 Payment.
- WAC 388-96-813 Suspension of payment.
- WAC 388-96-816 Termination of payments.

Purpose: See Title of Rule above.

Statutory Authority for Adoption: See Title of Rule above.

Statute Being Implemented: See Title of Rule above.

Summary: See Title of Rule above.

Reasons Supporting Proposal: See Title of Rule above.

Name of Agency Personnel Responsible for Drafting: Patricia Hague, Mailstop 45819, (360) 753-0631; Implementation: Nancy Holderman, Mailstop 45600, (360) 493-2587; and Enforcement: Denise Gaither, Mailstop 45600, (360) 493-2525.

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

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

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

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required when only businesses with fifty or more employees will be impacted. The revisions to chapter 388-96 WAC set or adjust Medicaid rates for nursing homes. Thus, the revisions to chapter 388-96 WAC only impact businesses with fifty or more employees.

The proposed revisions to chapter 388-96 WAC are rules that set or adjust fees or rates pursuant to legislative standards. Therefore, under RCW 19.85.025(3) and 34.05.310(4)(f) the revisions to chapter 388-96 WAC are exempt from a small business economic impact statement.

RCW 34.05.328 applies to this rule adoption. These rules do meet the definition of a significant legislative rule but the Department of Social and Health Services is exempt from preparing an analysis under RCW 34.05.328 (5)(b)(vi).

Under RCW 34.05.328 (5)(b)(vi), rules that set or adjust fees or rates pursuant to legislative standards are exempt from RCW 34.05.328.

Amendments to and new sections for chapter 388-96 WAC are to implement E2SHB 2935. Section 1 of E2SHB 2935 (chapter 322, Laws of 1998) amending RCW 74.46.010 reads as follows: This chapter may be known and cited as the "nursing facility Medicaid payment system." The purposes of this chapter are to specify the manner by which legislative appropriations for Medicaid nursing facility services are to be allocated as payment rates among nursing facilities, and to set forth auditing billing, and other administrative standards associated with payments to nursing home facilities.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on August 25, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by August 14, 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 August 25, 1998.

Date of Intended Adoption: September 15, 1998.

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

PROPOSED

Chapter 388-96 WAC

NURSING ((HOME ACCOUNTING AND REIMBURSEMENT)) FACILITY MEDICAID PAYMENT SYSTEM

AMENDATORY SECTION (Amending WSR 97-17-040, filed 8/14/97, effective 9/14/97)

WAC 388-96-010 ((Terms)) Definitions. Unless the context indicates otherwise, the following definitions apply in this chapter.

"Accounting" means activities providing information, usually quantitative and often expressed in monetary units, for:

- (1) Decision-making;
- (2) Planning;
- (3) Evaluating performance;
- (4) Controlling resources and operations; and
- (5) External financial reporting to investors, creditors, regulatory authorities, and the public.

~~("Accrual method of accounting" means a method of accounting in which revenues are reported in the period when earned, regardless of when collected, and expenses are reported in the period in which incurred, regardless of when paid.)~~

"Administration and management" means activities used to maintain, control, and evaluate the efforts and resources of an organization for the accomplishment of the objectives and policies of that organization.

"Allowable costs" - ((See WAC 388-96-504)) means documented costs that are necessary, ordinary, and related to the care of Medicaid recipients, and are not expressly declared nonallowable by this chapter or chapter 74.46 RCW. Costs are ordinary if they are of the nature and magnitude that prudent and cost conscious management would pay.

~~("Ancillary care" means services that are required by the individual, comprehensive plan of care provided by qualified therapists or by support personnel under their supervision.~~

~~"Arm's length transaction" means a transaction resulting from good faith bargaining between a buyer and seller who have adverse bargaining positions in the marketplace. The following are not arm's length transactions:~~

- ~~(1) The sale or exchange of nursing home facilities between two or more parties in which all parties subsequently continue to own one or more of the facilities involved in the transaction; and~~
- ~~(2) Sale of a nursing home facility that is subsequently leased back to the seller within five years of the date of sale.~~

~~"Assets" means economic resources and certain deferred charges of the contractor, recognized and measured according to generally accepted accounting principles.~~

~~"Bad debts" means amounts considered to be uncollectible from accounts and notes receivable.~~

~~"Beds" means, unless otherwise specified, the number of set up beds in the nursing home, not to exceed the number of licensed beds.~~

~~"Beneficial owner" means any person who:~~

~~(1) Directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:~~

~~(a) Voting power which includes the power to vote, or to direct the voting of such ownership interest; and/or~~

~~(b) Investment power which includes the power to dispose, or to direct the disposition of such ownership interest;~~

~~(2) Directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself or herself of beneficial ownership of an ownership interest, or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter;~~

~~(3) Subject to subsection (2) of "beneficial owner," has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:~~

~~(a) Through the exercise of any option, warrant, or right;~~

~~(b) Through the conversion of an ownership interest;~~

~~(c) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or~~

~~(d) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;~~

~~Except that, any person who acquires an ownership interest or power specified in (a), (b), or (c) of subsection (3) of "beneficial owner" with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power; or~~

~~(4) In the ordinary course of business, is a pledgee of ownership interest under a written pledge agreement, shall not be deemed the beneficial owner of such pledged ownership interest until the pledgee:~~

~~(a) Takes all formal steps necessary required to declare a default; and~~

~~(b) Determines the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised; provided that, the pledge agreement:~~

~~(i) Is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in subsection (2) of this definition; and~~

~~(ii) Prior to default, does not grant the pledgee the power to:~~

~~(A) Vote or direct the vote of the pledged ownership interest; or~~

~~(B) Dispose or direct the disposition of the pledged ownership interest, other than the grant of such power or powers pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.~~

~~"Capitalization" means the recording of an expenditure as an asset.)~~ **"Allowable depreciation costs"** means depreciation costs of tangible assets, whether owned or leased by the contractor, meeting the criteria specified in RCW 74.46.330.

"Anticipated patient days" are calculated by multiplying the number of licensed beds at the nursing facility by the number of days in the cost report period used to set the property rate and multiplying the product by the nursing facility's expected occupancy, which must be at eighty-five percent or above.

"Assignment of contract" means:

(1) A new nursing facility licensee has elected to care for Medicaid residents;

(2) The department finds no good cause to object to continuing the Medicaid contract at the facility; and

(3) The new licensee accepts assignment of the immediately preceding contractor's contract at the facility.

"Capitalized lease" means a lease required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

"Cash method of accounting" means a method of accounting in which revenues are recorded when cash is received, and expenditures for expense and asset items are not recorded until cash is disbursed for those expenditures and assets.

"Change of ownership" means a substitution of the individual operator or operating entity contracting with the department to deliver care services to medical care recipients in a nursing facility and ultimately responsible for the daily operational decisions of the nursing facility.

(1) Events which constitute a change of ownership include, but are not limited to, the following:

(a) Changing the form of legal organization of the contractor ~~((is changed-)),~~ e.g., a sole proprietor forms a partnership or corporation~~((?))~~;

(b) Transferring ownership of the nursing ~~((home))~~ facility business enterprise ~~((is transferred by the contractor))~~ to another party, regardless of whether ownership of some or all of the real property and/or personal property assets of the facility ~~((is))~~ are also transferred;

(c) ~~((If the contractor is))~~ Dissolving of a partnership~~((; any event that dissolves the partnership))~~;

(d) ~~((If the contractor is a corporation, and))~~ Dissolving the corporation ~~((is dissolved, merges)),~~ merging the corporation with another corporation, which is the survivor, or ~~((consolidates))~~ consolidating with one or more other corporations to form a new corporation;

(e) ~~((If the operator is a corporation and))~~ Transferring, whether by a single transaction or multiple transactions within any continuous twenty-four-month period, fifty percent or more of the stock ~~((is transferred))~~ to one or more:

(i) New or former stockholders; or

(ii) Present stockholders each having held less than five percent of the stock before the initial transaction; or

(f) Substituting of the individual operator or the operating entity by any other event or combination of events ~~((which results in a substitution or substitution of control of the individual operator or the operating entity contracting with the department to deliver care services))~~.

(2) Ownership does not change when the following~~((; without more,))~~ occurs:

(a) A party contracts with the contractor to manage the nursing facility enterprise as the contractor's agent, i.e., sub-

ject to the contractor's general approval of daily operating and management decisions; or

(b) The real property or personal property assets of the nursing facility change ownership or are leased, or a lease of them is terminated, without a substitution of individual operator or operating entity and without a substitution of control of the operating entity contracting with the department to deliver care services.

"Charity allowance" means a reduction in charges made by the contractor because of the indigence or medical indigence of a patient.

"Contract" means ~~((a contract))~~ an agreement between the department and a contractor for the delivery of nursing facility services to medical care recipients.

~~(("Contractor" means an entity that contracts with the department to deliver services to medical care recipients in a nursing facility. The entity is responsible for operational decisions.))~~

"Cost report" means all schedules of a nursing facility's cost report submitted according to the department's instructions.

"Courtesy allowances" means reductions in charges in the form of an allowance to physicians, clergy, and others, for services received from the contractor. Employee fringe benefits are not considered courtesy allowances.

~~(("CSO" means the local community services office of the department.~~

~~"Department" means the department of social and health services (DSHS) and employees.~~

~~"Depreciation" means the systematic distribution of the cost or other base of tangible assets, less salvage, over the estimated useful life of the assets.))~~

"Donated asset" means an asset the contractor acquired without making any payment for the asset either in cash, property, or services. An asset is not a donated asset if the contractor:

(1) Made even a nominal payment in acquiring the asset; or

(2) Used donated funds to purchase the asset.

~~(("Entity" means an individual, partnership, corporation, or any other association of individuals capable of entering enforceable contracts.))~~

"Equity capital" means total tangible and other assets which are necessary, ordinary, and related to patient care from the most recent provider cost report minus related total long-term debt from the most recent provider cost report plus working capital as defined in this section.

~~(("Exceptional care recipient" means a medical care recipient determined by the department to require exceptionally heavy care.~~

~~"Facility" means a nursing home or facility licensed in accordance with chapter 18.51 RCW, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.~~

"Fair market value" means:

(1) Prior to January 1, 1985, the price for which an asset would have been purchased on the date of acquisition in an arm's length transaction between a well informed buyer and seller, neither being under any compulsion to buy or sell, or

(2) Beginning January 1, 1985, the replacement cost of an asset, less observed physical depreciation, on the date the fair market value is determined.

"Financial statements" means statements prepared and presented according to generally accepted accounting principles and the provisions of chapter 74.46 RCW and this chapter including, but not limited to:

- (1) Balance sheet;
- (2) Statement of operations;
- (3) Statement of changes in financial position; and
- (4) Related notes.

"Fiscal year" means the operating or business year of a contractor. All contractors report on the basis of a twelve-month fiscal year, but provision is made in this chapter for reports covering abbreviated fiscal periods. As determined by context or otherwise, "fiscal year" may also refer to a state fiscal year extending from July 1 through June 30 of the following year and comprising the first or second half of a state fiscal biennium.

"Gain on sale" means the actual total sales price of all tangible and intangible nursing ((home) facility) assets including, but not limited to, land, building, equipment, supplies, goodwill, and beds authorized by certificate of need, minus the net book value of such assets immediately prior to the time of sale.

~~("Generally accepted accounting principles (GAAP)" means accounting principles approved by the financial accounting standards Board (FASB).~~

~~"Generally accepted auditing standards (GAAS)" means auditing standards approved by the American institute of certified public accountants (AICPA).~~

~~"Goodwill" means the excess of the price paid for:~~

- (1) A business over the fair market value of all other identifiable, tangible, and intangible assets acquired; and
- (2) An asset over the fair market value of the asset.

~~"Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies.~~

~~"Imprest fund" means a fund which is regularly replenished in exactly the amount expended from it.)~~

"Intangible asset" is an asset that lacks physical substance but possesses economic value.

"Interest" means the cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

~~("Joint facility costs" means any costs representing expenses incurred which benefit more than one facility, or one facility and any other entity.~~

~~"Lease agreement" means a contract between two parties for the possession and use of real or personal property or assets for a specified period of time in exchange for specified periodic payments. Elimination or addition of any party to the contract, expiration, or modification of any lease term in effect on January 1, 1980, or termination of the lease by either party by any means shall constitute a termination of the lease agreement. An extension or renewal of a lease agreement, whether or not pursuant to a renewal provision in the lease agreement, shall be considered a new lease agreement. A strictly formal change in the lease agreement which modifies the method, frequency, or manner in which the lease payments are made, but does not increase the total lease payment~~

obligation of the lessee shall not be considered modification of a lease term.

~~"Medical care program" means medical assistance provided under RCW 74.09.500 or authorized state medical care services.~~

~~"Medical care recipient" means an individual determined eligible by the department for the services provided in chapter 74.09 RCW.)~~

"Multiservice facility" means a facility at which two or more types of health or related care are delivered, e.g., a hospital and nursing facility, or a boarding home and nursing facility.

~~("Net book value" means the historical cost of an asset less accumulated depreciation.~~

~~"Net invested funds" means the net book value of tangible fixed assets, excluding assets associated with central or home offices or otherwise not on the nursing facility premises, employed by a contractor to provide services under the medical care program, including land, buildings, and equipment as recognized and measured in conformity with generally accepted accounting principles and not in excess of any lids or reimbursement limits set forth in this chapter, plus an allowance for working capital as provided in this chapter.)~~

"Nonadministrative wages and benefits" means wages, benefits, and corresponding payroll taxes paid for nonadministrative personnel, not to include administrator, assistant administrator, or administrator-in-training.

"Nonallowable costs" means the same as "unallowable costs."

"Nonrestricted funds" means funds which are not restricted to a specific use by the donor, e.g., general operating funds.

~~("Nursing facility" means a home, place, or institution, licensed under chapter 18.51 or 70.41 RCW, where nursing care services are delivered.~~

"Operating lease" means a lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

"Owner" means a sole proprietor, general or limited partner, or beneficial interest holder of five percent or more of a corporation's outstanding stock.

"Ownership interest" means all interests beneficially owned by a person, calculated in the aggregate, regardless of the form the beneficial ownership takes.

"Patient day" or "resident day" means a calendar day of care provided to a nursing facility resident that will include the day of admission and exclude the day of discharge, except that, when admission and discharge occur on the same day, one day of care shall be deemed to exist. A patient is admitted for purposes of this definition when the patient is assigned a bed and a patient medical record is opened. A "client day" or "recipient day" means a calendar day of care provided to a medical care recipient determined eligible by the department for services provided under chapter 74.09 RCW, subject to the same conditions regarding admission and discharge applicable to a patient day or resident day of care.)

"Per diem (per patient day or per resident day) costs" means total allowable costs for a fiscal period divided by total patient or resident days for the same period.

~~((**"Professionally designated real estate appraiser"** means an individual:~~

~~(1) Regularly engaged in the business of providing real estate valuation services for a fee;~~

~~(2) Qualified by a nationally recognized real estate appraisal educational organization on the basis of extensive practical appraisal experience, including:~~

~~(a) Writing of real estate valuation reports;~~

~~(b) Passing of written examinations on valuation practice and theory; and~~

~~(c) Subscribing and adhering to the standards of professional practice required by the organization.))~~

"Prospective daily payment rate" means the rate assigned by the department to a contractor for providing service to medical care recipients ~~((The rate is used to compute the maximum participation of the department in the contractor's costs))~~ prior to the application of settlement principles.

~~((**"Qualified therapist"**:~~

~~(1) An activities specialist having specialized education, training, or at least one year's experience in organizing and conducting structured or group activities;~~

~~(2) An audiologist eligible for a certificate of clinical competence in audiology or having the equivalent education and clinical experience;~~

~~(3) A mental health professional as defined by chapter 71.05 RCW;~~

~~(4) A mental retardation professional who is either a qualified therapist or a therapist approved by the department who has specialized training or one year's experience in treating or working with the mentally retarded or developmentally disabled;~~

~~(5) A social worker graduated from a school of social work;~~

~~(6) A speech pathologist eligible for a certificate of clinical competence in speech pathology or having the equivalent education and clinical experience;~~

~~(7) A physical therapist as defined by chapter 18.74 RCW;~~

~~(8) An occupational therapist licensed under chapter 18.59 RCW and chapter 246-847 WAC; or~~

~~(9) A respiratory care practitioner certified under chapter 18.89 RCW.~~

"Rebased rate" or **"cost rebased rate"** means a facility specific rate assigned to a nursing facility for a particular rate period established on desk reviewed, adjusted costs reported for that facility covering at least six months of a prior calendar year.))

"Recipient" means a ~~((medical care))~~ Medicaid recipient.

~~((**"Records"** means data supporting all financial statements and cost reports including, but not limited to:~~

~~(1) All general and subsidiary ledgers;~~

~~(2) Books of original entry;~~

~~(3) Invoices;~~

~~(4) Schedules;~~

~~(5) Summaries; and~~

~~(6) Transaction documentation, however maintained.~~

"Regression analysis" means a statistical technique through which one can analyze the relationship between a

dependent or criterion variable and a set of independent or predictor variables.))

"Related care" includes:

(1) The director of nursing services;

(2) Activities and social services programs;

(3) Medical and medical records specialists; and

(4) Consultation provided by:

(a) Medical directors; and

(b) Pharmacists(;

~~(c) Occupational therapists;~~

~~(d) Physical therapists;~~

~~(e) Speech therapists;~~

~~(f) Other therapists; and~~

~~(g) Mental health professionals as defined in law and regulation.~~

"Related organization" means an entity under common ownership and/or control, or which has control of or is controlled by, the contractor. Common ownership exists if an entity has a five percent or greater beneficial ownership interest in the contractor and any other entity. Control exists if an entity has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution, whether or not the power is legally enforceable and however exercisable or exercised.))

"Relative" includes:

(1) Spouse;

(2) Natural parent, child, or sibling;

(3) Adopted child or adoptive parent;

(4) Stepparent, stepchild, stepbrother, stepsister;

(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law;

(6) Grandparent or grandchild; and

(7) Uncle, aunt, nephew, niece, or cousin.

~~((**"Restricted fund"** means a fund for which the use of the principal and/or income is restricted by agreement with or direction of the donor to a specific purpose, in contrast to a fund over which the contractor has complete control. Restricted funds generally fall into three categories:~~

~~(1) Funds restricted by the donor to specific operating purposes;~~

~~(2) Funds restricted by the donor for additions to property, plant, and equipment; and~~

~~(3) Endowment funds.~~

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

"Start-up costs" means the one-time preopening costs incurred from the time preparation begins on a newly constructed or purchased building until the first patient is admitted. Start-up costs include:

(1) Administrative and nursing salaries;

(2) Utility costs;

(3) Taxes;

(4) Insurance;

(5) Repairs and maintenance; and

(6) Training costs.

Start-up costs do not include expenditures for capital assets.

~~((**"Title XIX"** means the 1965 amendments to the Social Security Act, P.L. 89-07, as amended.))~~

"**Unallowable costs**" means costs which do not meet every test of an allowable cost.

"**Uniform chart of accounts**" means a list of account titles identified by code numbers established by the department for contractors to use in reporting costs.

"**Vendor number**" means a number assigned to each contractor delivering care services to medical care recipients.

"**Working capital**" means total current assets necessary, ordinary, and related to patient care from the most recent cost report minus total current liabilities necessary, ordinary, and related to patient care from the most recent cost report.

AMENDATORY SECTION (Amending Order 2245, filed 6/18/85)

WAC 388-96-020 Prospective cost-related (~~reimbursement~~) payment. The (~~prospective cost-related reimbursement~~) nursing facility Medicaid payment system is the system used by the department to pay for (~~skilled~~) nursing facility services (~~and intermediate care facility services~~) provided to medical care recipients. (~~Reimbursement rates for such services will~~) Payment for nursing facility care shall be determined in accordance with (~~the principles, methods, and standards contained in~~) this chapter and (~~in~~) chapter 74.46 RCW (~~as set forth in this chapter~~) as amended by E2SHB 2935 (chapter 322, Laws of 1998). The provisions of chapter 74.46 RCW are incorporated by reference in this chapter as if fully set forth.

AMENDATORY SECTION (Amending Order 3555, filed 5/26/93, effective 6/26/93)

WAC 388-96-026 (~~Projected budget for~~) New contractors. (1) For purposes of administering (~~chapter 388-96 WAC~~) the payment system, the department shall consider a "new contractor" as one who receives a new vendor number and:

(a) Builds from the ground-up a new facility; and operates the new facility with completely new staff, administration and residents. If the "new contractor" operated a nursing facility immediately before the opening of the new facility, then the "new contractor" must operate the new facility with:

(i) (~~With~~) Staff and administration that are substantially to completely different than the previous operation of the "new contractor"; and

(ii) (~~Have~~) A resident population that is substantially to completely different than the residents residing in the previous nursing facility; or

(b) Currently operates, acquires, or assumes responsibility for operating an existing nursing facility that was not operated under a Medicaid contract immediately prior to the effective date of the new Medicaid contract; or

(c) Purchases or leases a nursing facility that, at the time of the purchase or lease, was operated under a Medicaid contract.

(2) (~~A new contractor as defined under WAC 388-96-026 (1)(a) or (b) shall submit a projected budget to the department at least sixty days before its contract becomes effective. The projected budget shall:~~

(a) ~~Cover the twelve months immediately following the date the contractor enters the program;~~

(b) ~~Be certified by the new contractor;~~

(c) ~~Be prepared on forms and in accordance with instructions provided by the department; and~~

(d) ~~Include all earnest money, purchase, and lease agreements involved in the transactions, if applicable.~~

(3) ~~A new contractor shall submit~~(c);

(a) At least sixty days before the effective date of the contract or assignment, a statement disclosing the identity of individuals or organizations who:

((a)) (i) Have a beneficial ownership interest in the current operating entity or the land, building, or equipment of the facility; or

((b)) (ii) Have a beneficial ownership interest in the purchasing or leasing entity.

(b) By March 31st of the following year, a cost report for the period from the effective date of the contract or assignment through December 31st of year the contract or assignment was effective.

AMENDATORY SECTION (Amending Order 3896, filed 9/12/95, effective 10/13/95)

WAC 388-96-108 Failure to submit final reports. (1) If a nursing facility's contract is terminated or assigned, (~~the old contractor shall submit a final report as required by WAC 388-96-032(1) and 388-96-104(2). Such final reports must be received by the department within one hundred twenty days after the contract is terminated or prior to the expiration of any department approved extension granted pursuant to WAC 388-96-107. If~~) and the nursing facility does not submit a final cost report (~~is not submitted~~) as required by RCW 74.46.040, the nursing facility shall return to the department all payments made to the terminating or assigning contractor relating to the period for which a report has not been received (~~shall be returned to the department~~) within sixty days after (~~receiving~~) the terminating or assigning contractor receives a written demand from the department.

(2) Effective sixty days after the terminating or assigning contractor receives a written demand for payment (~~is received by the contractor~~), interest will begin to accrue payable to the department on any unpaid balance at the rate of one percent per month.

AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

WAC 388-96-119 Reports—False information. (1) If a contractor knowingly or with reason to know files a report containing false information, such action constitutes good cause for termination of its contract with the department.

(2) In accordance with chapter 74.46 RCW, as amended by section 31 of E2SHB 2935 (chapter 322, Laws of 1998), the department will make adjustments to (~~reimbursement~~) payment rates (~~required~~) because a false report was filed (~~will be made in accordance with WAC 388-96-769~~).

(3) Contractors filing false reports may be referred for prosecution under applicable statutes.

AMENDATORY SECTION (Amending Order 2372, filed 5/7/86, effective 7/1/86)

WAC 388-96-122 Amendments to reports. (1) For the purpose of determining (~~audited~~) allowable costs (~~in computing a final settlement~~), the department shall consider an amendment to an annual report (~~shall be considered~~) only if filed by the provider (~~prior to~~) before the receipt by the provider of the notification scheduling the department's (~~field~~) audit (~~, except that~~). The contractor may file an amendment (~~may be filed~~) subsequent to such notification and pursuant to the provisions of (~~WAC 388-96-769 solely for the purpose of adjusting reimbursement rates. In order to determine the date of receipt, all notifications scheduling field audits shall be sent by registered mail, return receipt requested~~) chapter 74.46 RCW, as amended by section 31 of E2SHB 2935 (chapter 322, Laws of 1998) to adjust a payment rate allocation because of an error or omission. (~~Amendments may be filed by~~) When the provider (~~and considered by the department~~) files an amendment, the department shall consider it only if significant errors or omissions are discovered (~~which are significant~~). The department shall deem errors or omissions (~~shall be deemed~~) "significant" (~~if~~) when the errors or omissions would mean a net difference of two cents or more per patient day or one thousand dollars or more in reported costs, whichever is higher, in any (~~cost area~~) component rate allocation. To file an amendment, only those cost report pages where changes appear need to be filed, together with the certification required by WAC 388-96-117.

(2) If an amendment is filed, a contractor shall also submit with the amendment an account of the circumstances relating to and the reasons for the amendment, along with supporting documentation. The department shall refuse to consider an amendment resulting in a more favorable settlement or payment rate allocation to a contractor if the amendment is not the result of circumstances beyond the control of the contractor or the result of good-faith error under the system of cost allocation and accounting in effect during the reporting period in question.

(3) Acceptance or use by the department of an amendment to a cost report shall in no way be construed as a release of applicable civil or criminal liability.

NEW SECTION

WAC 388-96-202 Scope of audit or department audit. (1) The department shall review the contractor's recordkeeping and accounting practices and, where appropriate, make written recommendations for improvements.

(2) The department's audit shall result in a schedule of summarizing adjustments to the contractor's cost report. The schedule shall show whether such adjustments eliminate costs reported or include costs not reported. Each adjustment listed shall include an explanation for the adjustment, the cost report account, and the dollar amount. In accordance with chapter 74.46 RCW, the department shall comply with the purpose of department audits by verifying that:

(a) Supporting records are in agreement with reported data;

(b) Only those assets, liabilities, and revenue and expense items the department has specified as allowable have

been included by the contractor in computing the costs of services provided under its contract;

(c) Allowable costs have been accurately determined and are necessary, ordinary, and related to resident care;

(d) Related organizations and beneficial ownerships or interests have been correctly disclosed;

(e) Home office or central office costs have been reported and allocated in accordance with the provisions of this chapter and chapter 74.46 RCW;

(f) Recipient trust funds have been properly maintained;

(g) Facility receivables do not include benefits or payments to which the provider is not entitled; and

(h) The contractor is otherwise in compliance with the provisions of this chapter and chapter 74.46 RCW.

(3) In complying with the purpose of department audits in chapter 74.46 RCW, the department may select any or all schedules of a facility's cost report. The department shall audit cost reports, resident trust fund accounts, and facility receivables of each nursing facility participating in the Medicaid payment system as determined necessary by the department.

(4) When determining the contractor's final settlement, the department shall apply to reported costs adjustments written under subsection (2), whether used for the purpose of establishing component rate allocations as described in chapter 74.46 RCW or to ascertain contractor compliance with subsection (2).

NEW SECTION

WAC 388-96-218 Proposed, preliminary, and final settlements. (1) For each component rate, the department shall calculate a settlement at the lower of prospective payment rate or audited allowable costs, except as otherwise provided in this chapter.

(2) In the proposed settlement report, a contractor shall compare the contractor's payment rates during a report period, weighted by the number of resident days reported for the period when each rate was in effect, to the contractor's allowable costs for the reporting period. The contractor shall take into account all authorized shifting, retained savings, and upper limits to rates on a cost center basis.

(a) Within one hundred twenty days after a proposed settlement report is received, the department shall:

(i) Review the proposed settlement report for accuracy; and

(ii) Either accept or reject the proposal of the contractor. If accepted, the proposed settlement report shall become the preliminary settlement report. If rejected, the department shall issue, by cost center, a preliminary settlement report fully substantiating disallowed costs, refunds, or underpayments due and adjustments to the proposed preliminary settlement.

(b) A contractor shall have twenty-eight days after receipt of a preliminary settlement report to contest such report under WAC 388-96-901 and 388-96-904. Upon expiration of the twenty-eight-day period, the department shall not review or adjust a preliminary settlement report. Any administrative review of a preliminary settlement shall be limited to calculation of the settlement, to the application of

settlement principles and rules, or both, and shall not encompass rate or audit issues.

(3) The department shall issue a final settlement report to the contractor after the completion of the department audit process, including exhaustion or termination of any administrative review and appeal of audit findings or determinations requested by the contractor, but not including judicial review as may be available to and commenced by the contractor.

(a) The department shall prepare a final settlement by cost center and shall fully substantiate disallowed costs, refunds, underpayments, or adjustments to the cost report and financial statements, reports, and schedules submitted by the contractor. The department shall take into account all authorized shifting, savings, and upper limits to rates on a cost center basis. For the final settlement report, the department shall compare:

(i) The payment rate the contractor was paid for the facility in question during the report period, weighted by the number of allowable resident days reported for the period each rate was in effect to the contractor's;

(ii) Audited allowable costs for the reporting period; or

(iii) Reported costs for the nonaudited reporting period.

(b) A contractor shall have twenty-eight days after the receipt of a final settlement report to contest such report pursuant to WAC 388-96-901 and 388-96-904. Upon expiration of the twenty-eight-day period, the department shall not review a final settlement report. Any administrative review of a final settlement shall be limited to calculation of the settlement, the application of settlement principles and rules, or both, and shall not encompass rate or audit issues.

(c) The department shall reopen a final settlement if it is necessary to make adjustments based upon findings resulting from a department audit performed pursuant to chapter 74.46 RCW as amended by section 8 of E2SHB 2935, (chapter 322, Laws of 1998). The department may also reopen a final settlement to recover an industrial insurance dividend or premium discount under RCW 51.16.035.

(4) In computing a preliminary or final settlement, a contractor may shift savings and/or overpayment in the support services cost center to cover a deficit and/or underpayment in the direct care or therapy cost centers up to the amount of the savings as provided in chapter 74.46 RCW as amended by section 10 of E2SHB 2935, (chapter 322, Laws of 1998). A contractor may not shift rate payments into any cost center, for settlement or any other purpose, if the total rate payment in that cost center, after shifting, would exceed the contractor's peer group median cost plus percentage limit for that cost center previously used by the department in establishing that facility's rate in that cost center following the period being settled. The provider's payment rate is subject to the provisions of RCW 74.46.421.

(5) If an administrative or judicial remedy sought by the facility is not granted or is granted only in part after exhaustion or mutual termination of all appeals, the facility shall refund all amounts due the department within sixty days after the date of decision or termination plus interest as payment on judgments from the date the review was requested pursuant to WAC 388-96-901 and WAC 388-96-904 to the date the repayment is made.

(6) In determining whether a facility has forfeited unused rate funds in its direct care, therapy care and support services component rates under authority of RCW 74.46.____(3), the following rules shall apply:

(a) Federal or state survey officials shall determine when a facility is not in substantial compliance or is providing substandard care, according to federal and state nursing facility survey regulations;

(b) The federal or state survey officials shall determine if a facility was out of substantial compliance, or was providing substandard quality of care, for more than ninety days by counting the total number of days of noncompliance or substandard quality of care during the settlement period at issue, regardless of the length of the settlement period;

(c) Correspondence from state or federal survey officials notifying a facility of its compliance status shall be used to determine the beginning and ending dates of any period(s) of noncompliance; and

(d) Forfeiture shall occur if the facility was out of substantial compliance more than ninety days during the settlement period. The ninety-day period need not be continuous if the number of days of noncompliance exceed ninety days during the settlement period. Also, forfeiture shall occur if the nursing facility was determined to provide substandard quality of care during the settlement period.

AMENDATORY SECTION (Amending Order 2573, filed 12/23/87)

WAC 388-96-502 Indirect and overhead costs. ((#)) Subject to the provisions of this chapter and chapter 74.46 RCW, when a contractor provides goods or services that are not reimbursable (~~((under this chapter))~~), any indirect or overhead costs associated with their provision must be allocated to such goods or services on a reasonable basis approved by the department and must not be reported as allowable costs. ~~((Such goods and services include, but are not limited to, compensation to administrative personnel and management fees in excess of limits established in this chapter.))~~

AMENDATORY SECTION (Amending WSR 97-17-040, filed 8/14/97, effective 9/14/97)

WAC 388-96-505 Offset of miscellaneous revenues.

(1) The contractor shall reduce allowable costs whenever the item, service, or activity covered by such costs generates revenue or financial benefits (e.g., purchase discounts, refunds of allowable costs or rebates) other than through the contractor's normal billing for care services; except, the department shall not deduct from the allowable costs of a nonprofit facility unrestricted grants, gifts, and endowments, and interest therefrom.

(2) The contractor shall reduce allowable costs for hold-bed revenue in the support services, operations and property (~~((administrative, and operational cost areas))~~) rate components only. In the ~~((property cost area))~~ support services rate component, the amount of reduction ~~((will))~~ shall be determined by dividing a facility's allowable ~~((property))~~ housekeeping costs by total adjusted patient days and multiplying the result by total hold-room days. In the ~~((administra-~~

~~tive cost area)) operations rate component, the amount of the ((bed hold revenue shall)) reduction shall be determined by dividing a facility's allowable ((administrative)) operation costs by total adjusted patient days and multiplying the result by total hold-room days. In the ((operational cost area)) property rate component, the amount of reduction ((will)) shall be determined by dividing allowable ((operational)) property costs ((minus dietary and laundry costs)) by the total adjusted patient days and multiplying the result by total hold-room days.~~

(3) Where goods or services are sold, the amount of the reduction shall be the actual cost relating to the item, service, or activity. In the absence of adequate documentation of cost, it shall be the full amount of the revenue received. Where financial benefits such as purchase discounts, refunds of allowable costs or rebates are received, the amount of the reduction shall be the amount of the discount or rebate. Financial benefits such as purchase discounts, refunds of allowable costs and rebates, including industrial insurance rebates, shall be offset against allowable costs in the year the contractor actually receives the benefits.

(4) Only allowable costs shall be recovered under this section. Costs allocable to activities or services not included in nursing facility services ((~~(4)~~), e.g., costs of vending machines and services specified in chapter 388-86 WAC not included in nursing facility services(~~(3)~~), are nonallowable costs.

AMENDATORY SECTION (Amending Order 3737, filed 5/26/94, effective 6/26/94)

WAC 388-96-525 Education and training. (1) Necessary and ordinary expenses of on-the-job training and in-service training required for employee orientation and certification training directly related to the performance of duties assigned will be allowable costs. Cost of training for which the nursing facility is reimbursed outside the payment rate is an unallowable cost.

~~(2) ((Ordinary expenses of nursing assistant training conducted pursuant to chapter 18.52A RCW will be allowable costs.~~

~~(3)) Necessary and ordinary expenses of recreational and social activity training conducted by the contractor for volunteers will be allowable costs. Expenses of training programs for other nonemployees will not be allowable costs.~~

~~((4)) (3) Expenses for travel, lodging, and meals associated with education and training in the states of Idaho, Oregon, and Washington and the province of British Columbia are allowable if the expenses meet the requirements of this chapter.~~

~~((5)) (4) Except travel, lodging, and meal expenses, education and training expenses at sites outside of the states of Idaho, Oregon, and Washington and the province of British Columbia are allowable costs if the expenses meet the requirements of this chapter.~~

~~((6)) (5) Costs designated by this section as allowable shall be subject to any applicable cost center limit established by this chapter.~~

NEW SECTION

WAC 388-96-530 What will be allowable compensation for owners, relatives, licensed administrator, assistant administrator, and/or administrator in training? Subject to any applicable cost center limit established by chapter 74.46 RCW, total allowable compensation shall be:

(1) As provided in the employment contract, including benefits, whether such contract is written, verbal, or inferred from the acts of the parties; or

(2) In the absence of a contract, gross salary or wages excluding payroll taxes and benefits made available to all employees, e.g., health insurance.

NEW SECTION

WAC 388-96-532 Does the contractor have to maintain time records? (1) The contractor shall maintain time records that are adequate for audit for owners, relatives, the licensed administrator, assistant administrator, and/or administrator-in-training. The contractor shall include in such records verification of the actual hours of service performed for the nursing home and shall document compensated time was spent in provision of necessary services actually performed.

(2) If the contractor has no or inadequate time records, the cost of compensation shall be unallowable.

AMENDATORY SECTION (Amending Order 3634, filed 9/14/93, effective 10/15/93)

WAC 388-96-535 Management agreements, management fees, and central office services. (1) ~~((If a contractor intends to enter into a management agreement with an individual or firm managing the nursing home as an agent of the contractor, the contractor shall send a copy of the agreement to the department at least sixty days before the agreement is to become effective. A contractor shall send a copy of any amendment to a management agreement to the department at least thirty days in advance of the date the amendment is to become effective. The department shall not allow management fees for periods prior to the time the department receives a copy of the applicable agreement. When necessary for the health and safety of medical care recipients, the department may waive the sixty day notice requirement in writing.~~

~~(2) The department shall allow management fees only if:~~

~~(a) A written management agreement both:~~

~~(i) Creates a principal and/or agent relationship between the contractor and the manager; and~~

~~(ii) Sets forth the items, services, and activities to be provided by the manager.~~

~~(b) Documentation demonstrates the services contracted for were actually delivered, were nonduplicative of other services rendered to the facility directly or indirectly, and the services were necessary to care for the residents of the facility. Fees are allowable only for such necessary, nonduplicative services to the extent they are of the nature and magnitude that prudent and cost-conscious management would pay.~~

~~(3)) The contractor shall disclose to the department the nature and purpose of the management agreement, including~~

an organizational chart showing the relationship between the contractor, management company and all related organizations. The department may request additional information or clarification.

(2) Acceptance of a management agreement may not be construed as a determination that all management fees or costs are allowable in whole or in part. Management fees or costs not disclosed or approved in conformity with chapter 74.46 RCW and this section are unallowable. When necessary for the health and safety of medical care recipients, the department may waive the sixty-day or thirty-day advance notice requirement of RCW 74.46.280 in writing.

(3) Management fees are allowable only for necessary, nonduplicative services that they are of the nature and magnitude that prudent and cost-conscious management would pay. Costs applicable to services, facilities, supplies and employees furnished by the management company are subject to RCW 74.46.220.

(4) Allowable fees for all general management services of any kind referenced in this section, including corporate or business entity management and ~~(board of director's fees and including)~~ management fees not allocated to specific services, are subject to any applicable cost center limit established ~~((by this chapter))~~ in chapter 74.46 RCW.

~~((4) A management fee paid to or for the benefit of a related organization shall be allowable at the lower of the actual cost to the related organization of providing necessary services related to patient care under the agreement, or the cost of comparable services purchased elsewhere. Where costs to the related organization represent joint facility costs, the department shall comply with WAC 388-96-534 in measuring such costs.))~~

(5) Central office costs, owner's compensation, and other fees or compensation, including joint facility costs, for general administrative and management services, including ~~((the))~~ management expense not allocated to specific services, shall be subject to any cost center limit established ~~((by this chapter))~~ by chapter 74.46 RCW.

(6) Necessary travel and housing expenses of nonresident staff working at a contractor's nursing facility shall be considered allowable costs if the visit does not exceed three weeks.

(7) Bonuses paid to employees at a contractor's nursing facility or management company shall be considered compensation.

~~((8) As similarly provided in WAC 388-96-210 regarding field audits, the department shall commence to apply a facility's peer group median cost plus percentage limit in the administrative cost area, in place of management fee limits previously contained in this section, beginning with report year 1992.))~~

NEW SECTION

WAC 388-96-536 Does the department limit the allowable compensation for an owner or relative of an owner? (1) The department shall limit total compensation of an owner or relative of an owner to ordinary compensation for necessary services actually performed.

(a) Compensation is ordinary if it is the amount usually paid for comparable services in a comparable facility to an unrelated employee, and does not exceed any applicable limit set out in chapter 74.46 RCW.

(b) A service is necessary if it is related to patient care and would have had to be performed by another person if the owner or relative had not done it.

(2) If the service provided would require licensed staff, e.g., RN, then the same license standard must be met when performed by an owner, relative or other administrative personnel.

NEW SECTION

WAC 388-96-540 Will the department allow the cost of an administrator-in-training? (1) The department shall not allow costs of an administrator-in-training for the purpose of setting the operations component prospective payment rate allocation.

(2) The department shall pay the costs of an approved administrator-in-training program by an add-on to the current prospective payment rate; unless, the operations cost center is at or above the median cost limit for the facility's peer group reduced or increased under chapter 74.46 RCW.

(3) To obtain a rate add-on, the contractor shall submit a request for an add-on to its current prospective rate together with necessary documentation which shall include:

(a) A copy of the department of licensing approval of the administrator-in-training program, and

(b) A schedule indicating the commencement date, expected termination date, salary or wage, hours, and costs of benefits. The contractor shall notify the department, at least thirty days in advance, of the actual termination date of the administrator-in-training program. Upon termination of the program, the department shall reduce the current prospective rate by an amount corresponding to the rate add-on.

(4) If the contractor does not use the administrator-in-training funds for the purpose for which they were granted, the department shall immediately recoup the misspent or unused funds.

NEW SECTION

WAC 388-96-542 Home office or central office. (1) The department shall audit the home office or central office whenever a nursing facility receiving such services is audited.

(2)(a) Assets used in the provision of services by or to a nursing facility, but not located on the premises of the nursing facility, shall not be included in net invested funds or in the calculation of property payment for the nursing facility.

(b) The nursing facility may allocate depreciation, interest expense, and operating lease expense for the home office, central office, and other off-premises assets to the cost of the services provided to or by the nursing facility on a reasonable statistical basis approved by the department.

(c) The allocated costs of (b) of this subsection may be included in the cost of services in such cost centers where such services and related costs are appropriately reported.

PROPOSED

(3) Home office or central office costs must be allocated and reported in conformity with the department-approved JCAD methodology as required by WAC 388-96-534.

(4) Home office or central office costs are subject to the limitation specified in RCW 74.46.410.

AMENDATORY SECTION (Amending Order 3634, filed 9/14/93, effective 10/15/93)

WAC 388-96-580 Operating leases of office equipment. (1) Rental costs of office equipment under arm's-length operating leases shall be allowable to the extent such costs are necessary, ordinary, and related to patient care. ~~((Beginning January 1, 1985, office))~~

(2) ~~The department shall pay office equipment rental costs ((shall be reimbursed)) in the ((administration and)) operations ((cost center)) component rate allocation. Office equipment may include items typically used in administrative or clerical functions such as telephones, copy machines, desks and chairs, calculators and adding machines, file cabinets, typewriters, and computers. ((However, expenses of leasing computers may not be reimbursed in excess of ten cents per patient day. Effective with July 1, 1993 rate setting, office equipment rental costs shall be reimbursed in the administrative cost center))~~

(3) The department shall not pay for depreciation of leased office equipment.

AMENDATORY SECTION (Amending WSR 97-17-040, filed 8/14/97, effective 9/14/97)

WAC 388-96-585 Unallowable costs. (1) The department shall not allow costs if not documented, necessary, ordinary, and related to the provision of care services to authorized patients. Unallowable costs listed in subsection (2) of this section represent a partial summary of such costs, in addition to those unallowable under chapter 74.46 RCW and this chapter.

(2) The department shall include, but not limit, unallowable costs to the following:

(a) ~~((Costs of items or services not covered by the medical care program. Costs of nonprogram items or services even if indirectly reimbursed by the department as the result of an authorized reduction in patient contribution;~~

(b) ~~Costs of services and items covered by the Medicaid program but not included in the Medicaid nursing facility daily payment rate. Items and services covered by the Medicaid nursing facility daily payment rate are listed in chapters 388-86 and 388-97 WAC;~~

(c) ~~Costs associated with a capital expenditure subject to Section 1122 approval (Part 100, Title 42 C.F.R.) if the department found the capital expenditure inconsistent with applicable standards, criteria, or plans. If the contractor did not give the department timely notice of a proposed capital expenditure, all associated costs shall be nonallowable as of the date the costs are determined not to be reimbursable under applicable federal regulations;~~

(d) ~~Costs associated with a construction or acquisition project requiring certificate of need approval or exemption from the requirements for certificate of need for the replace-~~

~~ment of existing nursing home beds pursuant to RCW 70.38.115 (13)(a) if such approval or exemption was not obtained;~~

(e) ~~Costs of outside activities (e.g., costs allocable to the use of a vehicle for personal purposes or related to the part of a facility leased out for office space);~~

(f) ~~Salaries or other compensation of owners, officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to patient care;~~

(g) ~~Costs in excess of limits or violating principles set forth in this chapter;~~

~~((h)) (b) Costs resulting from transactions or the application of accounting methods circumventing ((the)) principles ((of the prospective cost-related reimbursement system)) set forth in this chapter;~~

~~((i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere;~~

(j) (c) Bad debts. Beginning July 1, 1983, the department shall allow bad debts of Title XIX recipients only if:

(i) The debt is related to covered services;

(ii) It arises from the recipient's required contribution toward the cost of care;

(iii) The provider can establish reasonable collection efforts were made;

(iv) The debt was actually uncollectible when claimed as worthless; and

(v) Sound business judgment established there was no likelihood of recovery at any time in the future.

Reasonable collection efforts shall consist of at least three documented attempts by the contractor to obtain payment ~~((Such documentation shall demonstrate))~~ demonstrating that the effort devoted to ~~((collect))~~ collecting the bad debts of Title XIX recipients is ~~((at))~~ the same ~~((level as the effort normally))~~ devoted by the contractor to collect the bad debts of non-Title XIX ~~((patients. Should a contractor collect on a bad debt, in whole or in part, after filing a cost report, reimbursement for the debt by the department shall be refunded to the department to the extent of recovery. The department shall compensate a contractor for bad debts of Title XIX recipients at final settlement through the final settlement process only.~~

(k) Charity and courtesy allowances;

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations. Any portion of trade association dues attributable to legal and consultant fees and costs in connection with lawsuits or other legal action against the department shall be unallowable;

(m) Vending machine expenses;

(n) Expenses for barber or beautician services not included in routine care;

(o) Funeral and burial expenses;

(p) Costs of gift shop operations and inventory;

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except items used

in patient activity programs where clothing is a part of routine care;

~~(r) Fund raising expenses, except expenses directly related to the patient activity program;~~

~~(s) Penalties and fines;~~

~~(t) Expenses related to telephones, televisions, radios, and similar appliances in patients' private accommodations;~~

~~(u) Federal, state, and other income taxes;~~

~~(v) Costs of special care services except where authorized by the department;~~

~~(w) Expenses of any employee benefit not in fact made available to all employees on an equal or fair basis, e.g., key-man insurance, other insurance, or retirement plans;~~

~~(x) Expenses of profit sharing plans;~~

~~(y) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care;~~

~~(z) Personal expenses and allowances of owners or relatives;~~

~~(aa) All expenses for membership in professional organizations and all expenses of maintaining professional licenses, e.g., nursing home administrator's license;~~

~~(bb) Costs related to agreements not to compete;~~

~~(cc) Goodwill and amortization of goodwill;~~

~~(dd) Expense related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care)) recipients;~~

~~((ee)) (d) Legal and consultant fees in connection with a fair hearing against the department relating to those issues where:~~

~~(i) A final administrative decision is rendered in favor of the department or where otherwise the determination of the department stands at the termination of administrative review; or~~

~~(ii) In connection with a fair hearing, a final administrative decision has not been rendered; or~~

~~(iii) In connection with a fair hearing, related costs are not reported as unallowable and identified by fair hearing docket number in the period they are incurred if no final administrative decision has been rendered at the end of the report period; or~~

~~(iv) In connection with a fair hearing, related costs are not reported as allowable, identified by docket number, and prorated by the number of issues decided favorably to a contractor in the period a final administrative decision is rendered(-~~

~~(ff) Legal and consultant fees in connection with a lawsuit against the department, including suits which are appeals of administrative decisions;~~

~~(gg) Lease acquisition costs, bed rights and other intangible assets not related to patient care;~~

~~(hh) Interest charges assessed by the state of Washington or failure to make timely refund of overpayments and interest expenses incurred for loans obtained to make such refunds;~~

~~(ii) Beginning January 1, 1985, lease costs, including operating and capital leases, except for office equipment operating lease costs;~~

~~(jj) Beginning January 1, 1985, interest costs;~~

~~(kk) Travel expenses outside the states of Idaho, Oregon, and Washington, and the Province of British Columbia. However, travel to or from the home or central office of a chain organization operating a nursing home will be allowed whether inside or outside these areas if such travel is necessary, ordinary, and related to patient care;~~

~~(ll) Board of director fees for services in excess of one hundred dollars per board member, per meeting, not to exceed twelve meetings per year;~~

~~(mm) Moving expenses of employees in the absence of a demonstrated, good faith effort to recruit within the states of Idaho, Oregon, and Washington, and the Province of British Columbia;~~

~~(nn) For rates effective after June 30, 1993, depreciation expense in excess of four thousand dollars per year for each passenger car or other vehicles primarily used for the administrator, facility staff, or central office staff;~~

~~(oo) Any costs associated with the use of temporary health care personnel from any nursing pool not registered with the director of the department of health at the time of such pool personnel use;~~

~~(pp) Costs of payroll taxes associated with compensation in excess of allowable compensation for owners, relatives, and administrative personnel;~~

~~(qq) Department imposed postsurvey charges incurred by the facility as a result of subsequent inspections which occur beyond the first postsurvey visit during the certification survey calendar year;~~

~~(rr) For all partial or whole rate periods after July 17, 1984, costs of assets, including all depreciable assets and land, which cannot be reimbursed under the provisions of the Deficit Reduction Act of 1984 (DEFRA) and state statutes and regulations implementing DEFRA;~~

~~(ss) Effective for July 1, 1991, and all following rates, compensation paid for any purchased nursing care services, including registered nurse, licensed practical nurse, and nurse assistant services, obtained through service contract arrangement in excess of the amount of compensations which would have been paid for such hours of nursing care services had they been paid at the combined regular and overtime average hourly wage, including related taxes and benefits, for in-house nursing care staff of like classification of registered nurse, licensed practical nurse, or nursing assistant at the same nursing facility, as reported on the facility's filed cost report for the most recent cost report period;~~

~~(tt) Outside consultation expenses required pursuant to WAC 388-97-275;~~

~~(uu) Fees associated with filing a bankruptcy petition under chapters VII, XI, and XIII, pursuant to the Bankruptcy Reform Act of 1978, Public Law 95-598;~~

~~(vv) All advertising or promotional costs of any kind, except reasonable costs of classified advertising in trade journals, local newspapers, or similar publications for employment of necessary staff;~~

~~(ww) Costs reported by the contractor for a prior period to the extent such costs, due to statutory exemption, will not~~

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be incurred by the contractor in the period to be covered by the rate));

(e) All interest costs not specifically allowed in this chapter or chapter 74.46 RCW;

(f) Increased costs resulting from a series of transactions between the same parties and involving the same assets, e.g., sale and lease back, successive sales or leases of a single facility or piece of equipment.

AMENDATORY SECTION (Amending Order 3896, filed 9/12/95, effective 10/13/95)

WAC 388-96-704 Prospective ((reimbursement) payment rates. ((+)) The department, as provided in chapter 74.46 RCW and this chapter, shall determine ((or)), adjust, or update prospective Medicaid payment rates for nursing facility services provided to medical care recipients. Each rate, subject to the principles of this chapter and chapter 74.46 RCW, represents a nursing facility's maximum compensation for one resident day of care provided a medical care recipient determined by the department to both require and be eligible to receive nursing facility care.

((2) A contractor may also be assigned an individual prospective rate for a specific medical care recipient determined by the department to require exceptional care.))

AMENDATORY SECTION (Amending WSR 96-15-056, filed 7/16/96, effective 8/16/96)

WAC 388-96-708 Reinstatement of beds previously removed from service under chapter 70.38 RCW—Effect on prospective payment rate. (1) After removing beds from service (banked) under the provisions of chapter 70.38 RCW the contractor may bring back into service beds that were previously banked.

(2) When the contractor returns to service beds banked under the provisions of chapter 70.38 RCW, the department will recalculate the contractor's prospective payment rate allocations based on the ((increased)) facility's anticipated resident occupancy level following the increase in licensed bed capacity.

(3) The effective date of the recalculated prospective rate for beds returned to service:

(a) Between the first and the fifteenth of a month, shall be the first of the month in which the banked beds returned to service; or

(b) Between the sixteenth and the end of a month, shall be the first of the month following the month in which the banked beds returned to service.

(4) The recalculated prospective payment rate shall comply with all the provisions of rate setting contained in chapter 74.46 RCW or in this chapter, including all lids and maximums unless otherwise specified in this section. ((All))

(5) The recalculated prospective Medicaid payment ((rates from July 1, 1995 through June 30, 1998 shall remain in effect until an adjustment can be made for economic trends and conditions as authorized by chapter 74.46 RCW and this chapter)) rate shall be subject to adjustment if required by RCW 74.46.421.

AMENDATORY SECTION (Amending WSR 97-17-040, filed 8/14/97, effective 9/14/97)

WAC 388-96-709 Prospective rate revisions—Reduction in licensed beds. (1) The department will revise a contractor's prospective rate when the contractor reduces the number of its licensed beds and:

(a) Notifies the department in writing thirty days before the licensed bed reduction; and

(b) Supplies a copy of the new bed license and documentation of the number of beds sold, exchanged or otherwise placed out of service, along with the name of the contractor that received the beds, if any; and

(c) Requests a rate revision.

(2) The revised prospective rate shall comply with all the provisions of rate setting contained in chapter 74.46 RCW and in this chapter, including all lids and maximums, unless otherwise specified in this section ((and shall remain in effect until an adjustment can be made for economic trends and conditions as authorized by chapter 74.46 RCW and this chapter)).

(3) The revised prospective payment rate shall be effective the first of a month determined ((by where in the month the effective date of the licensed bed reduction occurs or the date the contractor complied with subsections 1(a), (b), and (c) of this section)) as follows:

(a) ((If)) When the contractor ((complied)) complies with subsection (1)((a)), (b)((c)), and (c) of this section and the effective date of the licensed bed reduction falls:

(i) Between the first and the fifteenth of the month, then the revised prospective rate is effective the first of the month in which the licensed bed reduction occurs; or

(ii) Between the sixteenth and the end of the month, then the revised prospective rate is effective the first of the month following the month in which the licensed bed reduction occurs((or)).

(b) ((When the contractor fails to comply with subsection 1(a) of this section, then the date the department receives from the contractor the documentation that is required by subsection (1)(b) and (c) of this section shall become the effective date of the reduction for the purpose of applying subsection (3)(a)(i) and (ii) of this section.

(4) For all prospective Medicaid payment rates from July 1, 1995 through June 30, 1998,)) The department shall revise a nursing facility's prospective rate to reflect a reduction in licensed beds as follows:

((a)) (i) The department shall use the reduced total number of licensed beds to determine occupancy used to calculate the ((nursing services, food, administrative and operational)) direct care, therapy care, support services and operations rate component((s per WAC 388-96-719)) allocations. If actual occupancy from the ((1994)) rate base cost report ((was)) is:

((+)) (A) At or over ((ninety)) eighty-five percent before the reduction and remains at or above ((ninety)) eighty-five percent, there will be no change to the component((s)) allocations;

((+)) (B) Less than ((ninety)) eighty-five percent before the reduction and changes to at or above ((ninety)) eighty-five percent, then recompute the components using actual ((1994)) rate based resident days; or

~~((iii))~~ (C) Less than ~~((ninety))~~ eighty-five percent before the reduction and remains below ~~((ninety))~~ eighty-five percent, then recompute the components using the change in resident days from the ~~((1994))~~ rate base cost report resulting from the reduced number of licensed beds used to calculate the ~~((ninety))~~ eighty-five percent.

~~((b))~~ (ii) To determine occupancy used to calculate the property and return on investment (ROI) ~~((components per WAC 388-96-719))~~ rate component allocations, the department shall use the facility's anticipated resident occupancy level subsequent to the decrease in licensed bed capacity as long as the occupancy for the reduced number of beds is at or above ~~((ninety))~~ eighty-five percent ~~((Subject to the provisions of chapter 388-96 WAC and chapter 74.46 RCW,))~~ and in no case shall the department use less than ~~((ninety))~~ eighty-five percent occupancy of the facility's reduced licensed bed capacity.

AMENDATORY SECTION (Amending Order 3896, filed 9/12/95, effective 10/13/95)

WAC 388-96-710 Prospective ~~((reimbursement))~~ payment rate for new contractors. (1) The department shall establish an initial prospective Medicaid payment rate for a new contractor as defined under WAC 388-96-026 ~~((1)(a) or (b))~~ within sixty days following ~~((receipt by the department of a properly completed projected budget (see WAC 388-96-026)))~~ the new contractor's application and approval for a license to operate the facility under chapter 18.51 RCW. The rate shall take effect as of the effective date of the contract, except as provided in this section, and shall comply with all the provisions of rate setting contained in chapter 74.46 RCW and in this chapter, including all lids and maximums set forth.

(2) Except for quarterly updates per chapter 74.46 RCW as amended by E2SHB 2935 (section 24 (7)(c), chapter 322, Laws of 1998), the rate established for a new contractor as defined in WAC 388-96-026 (1)(a) or (b) shall remain in effect for the nursing facility until the rate can be reset effective July 1 using the first cost report for that facility under the new contractor's operation containing at least six months' data from the prior calendar year, regardless of whether reported costs for facilities operated by other contractors for the prior calendar year in question will be used to cost rebase their July 1 rates. The new contractor's rate thereafter shall be cost rebased only as provided in this ~~((subsection only once during the period July 1, 1995 through June 30, 1998))~~ chapter and chapter 74.46 RCW.

~~((2))~~ (3) To set the initial prospective Medicaid payment rate for a new contractor as defined in WAC 388-96-026 (1)(a) and (b), the department shall:

(a) Determine whether the new contractor nursing facility belongs to the metropolitan statistical area (MSA) peer group or the non-MSA peer group using the latest information received from the office of management and budget or the appropriate federal agency;

(b) Select all nursing facilities from the department's records of all the current Medicaid nursing facilities in the new contractor's peer group with the same bed capacity plus or minus ten beds. If the selection does not result in at least seven facilities, then the department will increase the bed

capacity by plus or minus five bed increments until a sample of at least seven nursing facilities is obtained;

(c) Based on the information for the nursing facilities selected under subsection ~~((2))~~ (3)(b) of this section and available to the department on the day the new contractor began participating in the Medicaid payment rate system at the facility, rank from the highest to the lowest the component ~~((rates in nursing services, food, administrative))~~ rate allocation in direct care, therapy care, support services, and ~~((operational))~~ operations cost centers and based on this ranking:

(i) Determine the middle of the ranking and then identify the rate immediately above the median for each cost center identified in subsection ~~((2))~~ (3)(c) of this section. The rate immediately above the median will be known as the "selected rate" for each cost center; ~~((and))~~

(ii) Set the new contractor's nursing facility component ~~((rates))~~ rate allocation for ~~((each cost center identified in subsection (2)(c))~~ therapy care, support services, and operations at the ~~((lower of))~~ the "selected rate" ~~((or the budget rate))~~; ~~((and))~~

(iii) Set the direct care rate using data from the direct care "selected" rate facility identified in (c) of this subsection as follows:

(A) The cost per case mix unit shall be the rate base allowable case mixed direct care cost per patient day for the direct care "selected" rate facility, whether or not that facility is held harmless under WAC 388-96-728 and 388-96-729, divided by the facility average case mix index per WAC 388-96-741;

(B) The cost per case mix unit determined under (c)(iii)(A) of this subsection shall be multiplied by the Medicaid average case mix index per WAC 388-96-740. The product shall be the new contractor's direct care rate under case mix; and

(C) The department shall not apply chapter 74.46 RCW as amended by E2SHB 2935 (section 25 (5)(k), chapter 322, Laws of 1998) to any direct care rate established under subsection (5)(e) or (f) of this section. A new contractor whose direct care rate was established under subsection (5)(c) or (f) of this section is not eligible to be paid by a "hold harmless" rate as determined under chapter 74.46 RCW as amended by E2SHB 2935 (section 25 (5)(k), chapter 322, Laws of 1998);

(iv) Set the property rate in accordance with the provisions of this chapter and chapter 74.46 RCW; and

~~((iv))~~ (v) Set the return on investment rate in accordance with the provisions of this chapter and chapter 74.46 RCW. In computing the financing allowance, the department shall use for ~~((the nursing services, food, administrative,))~~ direct care, therapy care, support services and ~~((operational))~~ operations cost centers the rates set pursuant to subsection ~~((2))~~ (3)(c)(i) ~~((and))~~, (ii) and (iii) of this section.

(d) Any subsequent revisions to the rate component ~~((s))~~ allocations of the sample members will not impact a "selected rate" component allocation of the initial prospective rate established for the new contractor under this subsection ~~((; unless, a "selected rate" identified in subsection (2)(e) is at the median cost limit established for July 1, then the median cost limit established after October 31 for that "selected rate"~~

~~component becomes the component rate for the new contractor).~~

~~((3))~~ (4) For the WAC 388-96-026 (1)(a) or (b) new contractor, the department shall establish ~~((rates))~~ rate component allocations for:

(a) ~~((Nursing services, food, administrative))~~ Direct care, therapy care, support services and ((operational)) operations cost centers based on the "selected rates" as determined under subsection ~~((2))~~ (3)(c) of this section that are in effect on the date the new contractor began participating in the program; and

(b) Property in accordance with the provisions of this chapter and chapter 74.46 RCW using for the new contractor as defined under:

(i) WAC 388-96-026 (1)(a), information from the certificate of need; or

(ii) WAC 388-96-026 (1)(b), information provided by the new contractor within ten days of the date the department requests the information in writing. If the contractor as defined under WAC 388-96-026 (1)(b), has not provided the requested information within ten days of the date requested, then the property rate will be zero. The property rate will remain zero until the information is received.

(c) Return on investment rate in accordance with the provisions of this chapter and chapter 74.46 RCW using the "selected rates" established under subsection ~~((2))~~ (3)(c) of this section that are in effect on the date the new contractor began participating in the program, to compute the working capital provision and variable return for the new contractor as defined under:

(i) WAC 388-96-026 (1)(a), information from the certificate of need; or

(ii) WAC 388-96-026 (1)(b), information provided by the new contractor within ten days of the date the department requests the information in writing. If the contractor as defined under WAC 388-96-026 (1)(b), has not provided the requested information within ten days of the date requested, then the net book value of allowable assets will be zero. The financing allowance rate component will remain zero until the information is received.

~~((4))~~ (5) The initial prospective payment rate for a new contractor as defined under WAC 388-96-026 (1)(a) or (b) shall be established under subsections (3) and (4) of this section. If the WAC 388-96-026 (1)(a) or (b) contractor's initial rate:

(a) Was set before January 1, 1997, and the contractor does not have six months or greater of cost report data for 1996, the October 1, 1998, rate will be set using the contractor's 1997 cost report. Its July 1, 1999, and July 1, 2000, rates will not be cost rebased;

(b) Was set between January 1, 1997, and June 30, 1997, the October 1, 1998, rate will be set using the contractor's 1997 cost report. Its July 1, 1999, and July 1, 2000, rates will not be cost rebased;

(c) Was set between July 1, 1997, and June 30, 1998, the October 1, 1998, rate will be the revised initial sample based rate using October 1, 1998, rate data for direct care, therapy care, support services, and operations, and following the steps identified in subsection (3)(c)(i) and (ii) of this section. There will be no change to the facilities identified in the ini-

tial rate under subsection (3)(b) of this section. There will be no change to the property rate. The financing allowance will be revised. The contractor's July 1, 1999, rate will be rebased using 1998 cost report data. Its July 1, 2000, rate will not be cost rebased;

(d) Was set between July 1, 1998, and September 30, 1998, the October 1, 1998, rate will be the revised initial sample based rate using October 1, 1998, rate data for direct care, therapy care, support services, and operations, and following the steps identified in subsection (3)(c)(i) and (ii) of this section. There will be no change to the facilities identified in the initial rate under subsection (3)(b) of this section. There will be no change to the property rate. The financing allowance will be revised. The July 1, 1999, rate will be revised in the same manner using July 1, 1999, rate data. The July 1, 2000, rate will be rebased using 1999 cost report data;

(e) Is set between October 1, 1998, and June 30, 1999, the initial rate is set in accordance with subsections (3) and (4) of this section. The July 1, 1999, rate will be the revised initial sample based rate using July 1, 1999, rate data for direct care, therapy care, support services, and operations, and following the steps identified in subsection (3)(c)(i) and (ii) of this section. There will be no change to the facilities identified in the initial rate under subsection (3)(b) of this section. There will be no change to the property rate. The financing allowance will be revised. The July 1, 2000, rate will be rebased using 1999 cost report data; or

(f) Is set between July 1, 1999, and June 30, 2000, the initial rate is set in accordance with subsections (3) and (4) of this section. The July 1, 2000, rate will be the revised initial sample based rate using July 1, 2000, rate data for direct care, therapy care, support services, and operations, and following the steps identified in subsection (3)(c)(i) and (ii) of this section. There will be no change to the facilities identified in the initial rate under subsection (3)(b) of this section. There will be no change to the property rate. The financing allowance will be revised.

(6) For the WAC 388-96-026 (1)(c) new contractor, the initial prospective ((reimbursement)) payment rate ((for a new contractor as defined under WAC 388-96-026 (1)(c))) shall be the last prospective ((reimbursement)) payment rate ((paid by)) the department paid to the Medicaid contractor operating the nursing facility immediately prior to the effective date of the new Medicaid contract or assignment. If the WAC 388-96-026 (1)(c) contractor's initial rate:

(a) Was set before January 1, ((1995)) 1997, and the new contractor does not have a cost report containing at least six months' data from 1996, its ((July 1, 1995)) October 1, 1998, rate will be set by using twelve months of cost report data derived from the old contractor's data and the new contractor's data for the ((1994)) 1996 cost report year and its July 1, ((1996)) 1999, and July 1, ((1997)) 2000, rates will not be cost rebased;

(b) Was set between January 1, ((1995)) 1997, and ((June 30, 1995, its July 1, 1995)) September 30, 1998, its October 1, 1998, rate will be set by using the old contractor's ((1994)) 1996 twelve months' cost report data and its July 1, ((1996)) 1999, and July 1, ((1997)) 2000, rates will not be cost rebased; or

(c) Is set on or after (~~July 1, 1995~~) October 1, 1998, its July 1, (~~1996~~) 1999, and July 1, (~~1997~~) 2000, rates will not be cost rebased.

~~((5))~~ (7) A prospective payment rate set for ~~((a))~~ all new contractors shall be subject to adjustments for economic ~~((tends))~~ trends and conditions as authorized and provided in this chapter and in chapter 74.46 RCW. For the WAC 388-96-026 (1)(a) or (b) new contractor, to adjust the October 1, 1998, payment rate for economic trends and conditions, the department shall apply a 2.96 percent inflation factor to direct care, therapy care, support services, and operations rate components.

~~((6))~~ A new contractor whose Medicaid contract was effective in calendar year 1994 and whose nursing facility occupancy during calendar year 1994 increased by at least five percent over that of the prior operator, shall have its July 1, 1995 component rates for the nursing services, food, administrative, operational and property cost centers, and its the return on investment (ROI) component rate, based upon a minimum occupancy of eighty five percent.

~~(7) Notwithstanding any other provision in this chapter, for rates effective July 1, 1995 and following, for nursing facilities receiving original certificate of need approval prior to June 30, 1988, and commencing operations on or after January 1, 1995, the department shall base initial nursing services, food, administrative, and operational rate components on such component rates immediately above the median for facilities in the same county. Property and return on investment rate components shall be established as provided in chapter 74.46 RCW and this chapter.)~~ (8) For a WAC 388-96-026 (1)(a)(b) or (c), the Medicaid case mix index and facility average case mix index shall be determined in accordance with this chapter and chapter 74.46 RCW.

AMENDATORY SECTION (Amending Order 3896, filed 9/12/95, effective 10/13/95)

WAC 388-96-713 Rate determination. (1) Each nursing facility's Medicaid payment rate for services provided to medical care recipients will be determined, adjusted and updated prospectively as provided in this chapter and in chapter 74.46 RCW ~~((to be effective July 1 of 1995, 1996, and 1997 and may be adjusted more frequently to take into account program changes)).~~

(2) If the contractor participated in the program for less than six months of the prior calendar year, its rates will be determined by procedures set forth in WAC 388-96-710.

(3) ~~((Beginning with rates effective July 1, 1984,))~~ Contractors submitting correct and complete cost reports by March 31st, shall be notified of their rates by July 1st, unless circumstances beyond the control of the department interfere.

NEW SECTION

WAC 388-96-723 How often will the department compare the state-wide weighted average payment rate for all nursing facilities with the state-wide weighted average payment rate identified in the Biennial Appropriations Act? (1) On a monthly basis, the department will compare the state-wide weighted average payment rate for all

nursing facilities with the state-wide weighted average payment rate identified in the Biennial Appropriations Act. To determine the state-wide weighted average payment rate, the department shall use total billed Medicaid days and total billed Medicaid dollars.

(2) Under RCW 74.46.421, the department must implement a reduction in all nursing facilities' component rates any time its comparison indicates that the state-wide weighted average payment rate for all nursing facilities:

(a) Exceeds the state-wide weighted average payment rate identified in the Biennial Appropriations Act; or

(b) Is likely to exceed the state-wide weighted average payment rate identified in the Biennial Appropriations Act.

NEW SECTION

WAC 388-96-724 How much advance notice will a nursing facility receive of a rate reduction? (1) The department will notify the nursing facility at least twenty-eight calendar days in advance of the effective date of a reduction taken under RCW 74.46.421.

(2) The rate reduction taken under RCW 74.46.421 will be effective the first day of the month following the twenty-eight calendar day advance notice.

NEW SECTION

WAC 388-96-725 After the rate reductions when will a nursing facility's rates return to their previous level? (1) The rate reductions to all nursing facilities' component rates taken in accordance with RCW 74.46.421 will not be reversed.

(2) If after a reduction a nursing facility is eligible to receive an increase in a component rate for some unrelated change, e.g., a change in the Medicaid case mix index causes the direct care rate to increase, it may do so. However, the department must apply the increase to the rate reduced by application of RCW 74.46.421.

(3) Reductions made under RCW 74.46.421 are cumulative. When a monthly comparison indicates that the state-wide weighted average payment rate for all nursing facilities will exceed or exceeds the state-wide weighted average payment rate identified in the Biennial Appropriations Act, under RCW 74.46.421, the department must reduce the component rates for all nursing facilities without reversing any previous reductions or forgoing any future reductions.

NEW SECTION

WAC 388-96-726 If a nursing facility's component rates are below the state-wide weighted average payment rate identified in the Biennial Appropriations Act, will the department reduce the facility's component rates when it makes a rate reduction under RCW 74.46.421? (1) Irrespective of whether an individual nursing facility's component rates are below the state-wide weighted average payment rate identified in the Biennial Appropriations Act, the department must reduce the nursing facility's component rates as required under RCW 74.46.421.

(2) The department shall not exempt any nursing facility from a component rates reduction required by RCW 74.46.421 for any circumstance, e.g., billed Medicaid days, under-spending of the biennial appropriation for nursing facility rates, etc.

NEW SECTION

WAC 388-96-728 How will the nursing facility's "hold harmless" direct care rate be determined? For October 1, 1998, through June 30, 2000, under chapter 74.46 RCW as amended by E2SHB 2935 (section 25 (5)(k), chapter 322, Laws of 1998), the "hold harmless" direct care rate is the nursing facility's nursing service component rate in effect on June 30, 1998, adjusted as follows:

(1) Subtract allowable therapy costs from the cost report year used to set the facility's June 30, 1998, nursing services rate; and

(2) Add all exceptional care offsets made to reported costs from the cost report year used to set the June 30, 1998, rate.

The department shall adjust the therapy costs and exceptional care offsets for economic trends and conditions used to set the facility's June 30, 1998, rate.

NEW SECTION

WAC 388-96-729 When will the department use the "hold harmless rate" to pay for direct care services? For October 1, 1998, through June 30, 2000, under section 25 (5)(k), chapter 322, Laws of 1998, the department will use the higher of the "hold harmless" direct care rate determined under WAC 388-96-728 or the direct care rate determined in accordance with chapter 74.46 RCW as amended by E2SHB 2935 (section 25(1) through (5)(g), chapter 322, Laws of 1998), to pay for direct care services.

NEW SECTION

WAC 388-96-738 What default case mix group and weight must the department use for case mix grouping when there is no minimum data set resident assessment for a nursing facility resident? (1) When a resident:

(a) Dies before the facility completes the resident's initial assessment, the department must assign the assessment to the special care case mix group - SSB. The department must use the case mix weight assigned to the special care case mix group - SSB;

(b) Is discharged to an acute care facility before the nursing facility completes the resident's initial assessment, the department must assign the assessment to the special care case mix group - SSB. The department must use the case mix weight assigned to the special care case mix group - SSB; or

(c) Is discharged for a reason other than those noted above before the facility completes the resident's initial assessment, the department must assign the assessment to the case mix group BC1 with a case mix weight of 1.000.

(2) If the resident assessment is untimely as defined in chapter 74.46 RCW as amended by E2SHB 2935 (section 24, chapter 322, Laws of 1998) and as defined by federal regula-

tions, then the department must assign the case to the default case mix group of BC1 which has a case mix weight of 1.000.

(3) If there is no resident assessment for the first fourteen days of a resident's stay, then the department must assign the case to the default case mix group BC1 with a case mix weight of 1.000.

NEW SECTION

WAC 388-96-739 How will the department determine which resident assessments are Medicaid resident assessments? The department must identify a Medicaid resident assessment through the review of the minimum data set (MDS) payer source code. If the nursing facility codes the payer source as "Medicaid per diem," regardless of whether any other payer source codes are checked, then the department will count the case as a Medicaid resident assessment.

NEW SECTION

WAC 388-96-740 What will the department use as the Medicaid case mix index when a facility does not meet the ninety percent minimum data set (MDS) threshold as identified in chapter 74.46 RCW as amended by E2SHB 2935 (section 24, chapter 322, Laws of 1998)? (1) If the nursing facility is newly Medicaid certified after the quarter which will serve as the basis for the Medicaid case mix index, then the department must use the industry average Medicaid case mix index for the quarter specified in E2SHB 2935 (section 24 (7)(c)) as the facility's Medicaid average case mix index.

(2) If the nursing facility does not meet the ninety percent MDS threshold for any other reason, then the department must use the facility's prior quarterly Medicaid case mix index less five percent as the Medicaid case mix index.

(3) For October 1, 1998, through December 31, 1998, when the nursing facility's MDS data for April 1, 1998, through June 30, 1998, used to determine the nursing facility's direct care rate does not meet the ninety percent MDS threshold for any other reason, the department shall use the nursing facility's prior quarterly Medicaid case mix index as the Medicaid case mix index.

NEW SECTION

WAC 388-96-741 When the nursing facility does not have facility average case mix indexes for the four quarters specified in chapter 74.46 RCW as amended by E2SHB 2935 (section 24 (7)(b), chapter 322, Laws of 1998) for determining the cost per case mix unit, what will the department use to determine the nursing facility's cost per case mix unit? If the nursing facility:

(1) Is newly Medicaid certified after the four quarters specified in chapter 74.46 RCW as amended by E2SHB 2935 (section 24 (7)(b)), then the department must use the industry average case mix index for those four quarters as the facility's average case mix index.

(2) Existed during at least one of the four quarters and met the ninety percent threshold for at least one of the four quarters specified in chapter 74.46 RCW as amended by

E2SHB 2935 (section 24 (7)(b)), then the department must use the facility's average case mix index for the quarter that the facility met the ninety percent threshold.

(3) Existed during at least one of the four quarters and did not meet the ninety percent threshold for any of the four quarters, then the department must use the industry average case mix index as the facility's average case mix index.

NEW SECTION

WAC 388-96-742 When will the department use licensed beds to compute the ninety percent minimum data set (MDS) threshold rather than a nursing facility's quarterly average census? The department will use the number of licensed beds to compute the ninety percent threshold of MDS data when:

(1) The reported census as a result of data entry errors exceeds the number of current licensed beds; or

(2) There is a significant discrepancy between the reported census and the number of current licensed beds. If the census is fifty percent of the number of licensed beds, a significant discrepancy exists.

NEW SECTION

WAC 388-96-744 How will the department set the therapy care rate and determine the median cost limit per unit of therapy? (1) For a nursing facility that does not report units of therapy for the applicable cost report year, the department will set its nursing facility therapy care rate at \$0.00 until units of therapy are submitted.

(2) After the nursing facility reports its units of therapy, the department will pay the nursing facility a rate beginning the effective date of the rate year, e.g., July 1.

(3) In a rebase year the nursing facility's units of therapy must be reported in the cost report used to rebase the rate. If reported later than the cost report due date, the department shall exclude the nursing facility's therapy costs from the array of costs used to set the median cost limit per unit of therapy.

NEW SECTION

WAC 388-96-746 How much therapy consultant expense for each therapy type will the department allow to be added to the total allowable one-on-one therapy expense? (1) The department will multiply the actual patient days when greater than eighty-five percent or patient days at eighty-five percent occupancy by both:

(a) A nursing facility's adjusted therapy consulting costs per patient day; and

(b) The median adjusted therapy consulting cost plus ten percent.

The lesser of (a) or (b) of this subsection will be reasonable therapy consulting costs that the department shall add to the total allowable one-on-one therapy expense used to calculate the therapy care rate.

(2) To determine the median adjusted therapy consulting cost per type of therapy, the department shall:

(a) Divide Medicaid nursing facilities in the state into two peer groups:

(i) Those facilities located within a metropolitan statistical area; and

(ii) Those not located in a metropolitan statistical area. Metropolitan statistical areas and nonmetropolitan statistical areas shall be as determined by the United States Office of Management and Budget or other applicable federal office.

(b) Array the facilities in each peer group from highest to lowest based on their therapy consulting cost per patient day for each type of therapy.

(c) Determine the median total cost for therapy consulting per patient day costs by MSA and non-MSA peer group and add ten percent to that median cost.

NEW SECTION

WAC 388-96-747 Constructed, remodeled or expanded facilities. (1) When a facility is constructed, remodeled, or expanded after obtaining a certificate of need or exemption from the requirements for certificate of need for the replacement of existing nursing home beds pursuant to RCW 70.38.115 (13)(a), the department shall determine actual and allocated allowable land cost and building construction cost. Payment for such allowable costs, determined pursuant to the provisions of this chapter, shall not exceed the maximums set forth in this subsection and in subsections (2) and (7) of this section. The department shall determine construction class and types through examination of building plans submitted to the department and/or on-site inspections. The department shall use definitions and criteria contained in the Marshall and Swift Valuation Service published by the Marshall and Swift Publication Company. Buildings of excellent quality construction shall be considered to be of good quality, without adjustment, for the purpose of applying these maximums.

(2) Construction costs shall be final labor, material, and service costs to the owner or owners and shall include:

(a) Architect's fees;

(b) Engineers' fees (including plans, plan check and building permit, and survey to establish building lines and grades);

(c) Interest on building funds during period of construction and processing fee or service charge;

(d) Sales tax on labor and materials;

(e) Site preparation (including excavation for foundation and backfill);

(f) Utilities from structure to lot line;

(g) Contractors' overhead and profit (including job supervision, workmen's compensation, fire and liability insurance, unemployment insurance, etc.);

(h) Allocations of costs which increase the net book value of the project for purposes of Medicaid payment;

(i) Other items included by the Marshall and Swift Valuation Service when deriving the calculator method costs.

(3) The department shall allow such construction costs, at the lower of actual costs or the maximums derived from the sum of the basic construction cost limit plus the common use area limit which corresponds to the type, class and number of total nursing home beds for the new construction, remodel or

expansion. The maximum limits shall be calculated using the most current cost criteria contained in the *Marshall and Swift Valuation Service* and shall be adjusted forward to the mid-point date between award of the construction contract and completion of construction.

(4) When some or all of a nursing facility's common-use areas are situated in a basement, the department shall exclude some or all of the per-bed allowance for common-use areas to derive the construction cost lid for the facility. The amount excluded will be equal to the ratio of basement common-use areas to all common-use areas in the facility times the common-use area limits determined in accordance with subsection (3) of this section. In lieu of the excluded amount, the department shall add an amount calculated using the calculator method guidelines for basements in nursing homes published in the *Marshall and Swift Valuation Service*.

(5) Subject to provisions regarding allowable land contained in this chapter, allowable costs for land shall be the lesser of:

(a) Actual cost per square foot, including allocations;

(b) The average per square foot land value of the ten nearest urban or rural nursing facilities at the time of purchase of the land in question. The average land value sample shall reflect either all urban or all rural facilities depending upon the classification of urban or rural for the facility in question. The values used to derive the average shall be the assessed land values which have been calculated for the purpose of county tax assessments; or

(c) Land value for new or replacement building construction or substantial building additions requiring the acquisition of land that commenced to operate on or after July 1, 1997, determined in accordance with RCW 74.46.360 (2) and (3).

(6) If allowable costs for construction or land are determined to be less than actual costs pursuant to subsections (1) and (7) of this section, the department may increase the amount if the owner or contractor is able to show unusual or unique circumstances having substantially impacted the costs of construction or land. Actual costs shall be allowed to the extent they resulted from such circumstances up to a maximum of ten percent above levels determined under subsections (3), (4), and (5) of this section for construction or land. An adjustment under this subsection shall be granted only if requested by the contractor. The contractor shall submit documentation of the unusual circumstances and an analysis of their financial impact with the request.

(7) If a capitalized addition or retirement of an asset will result in an increased licensed bed capacity during the calendar year following the capitalized addition or replacement, the department shall use the facility's anticipated resident occupancy level subsequent to the increase in licensed bed capacity as long as the occupancy for the increased number of beds is at or above eighty-five percent. Subject to the provisions of this chapter and chapter 74.46 RCW, in no case shall the department use less than eighty-five percent occupancy of the facility's increased licensed bed capacity. If a capitalized addition, replacement, or retirement results in a decreased licensed bed capacity, WAC 388-96-709 will apply.

AMENDATORY SECTION (Amending Order 3634, filed 9/14/93, effective 10/15/93)

WAC 388-96-757 ((Reimbursement)) Payment for veterans' homes. (((1) Notwithstanding any other provision of this chapter, reimbursement rates for any nursing facility operated by the state of Washington, department of veterans affairs (DVA) shall, for the 1993/1995 biennium (July 1, 1993 through June 30, 1994 rate setting), be established according to the following procedures:

(a) DVA shall submit separately for each facility an opening year budget utilizing the 1992 cost report form and instructions designed for all Medicaid nursing facilities reimbursed for services under this chapter;

(b) Each facility budget shall be reviewed and adjusted by staff of the department's office of rates management, aging and adult services administration, utilizing rules of allowability for Medicaid costs contained in this chapter;

(c) The total prospective Medicaid rate for each DVA-operated facility to be effective July 1, 1993 (or effective upon the subsequent opening date of each facility), through June 30, 1995, shall be established at the lower of:

(i) Each facility's budgeted costs submitted by DVA, as reviewed and adjusted by department staff; or

(ii) One hundred fifty dollars per patient day in all cost centers combined.

(d) In the event the limit of one hundred fifty dollars at any DVA facility is exceeded by the total budgeted costs remaining after department review of the facility budget, the department will divide the one hundred fifty dollars limited amount among the cost centers in the following priority: nursing services, food, operational, administrative, property and return on investment (ROI).

(e) Once the rates are established and in effect, DVA may seek rate increases at any time during the 1993/1995 biennium to current fund additional costs exceeding the rates, but only as authorized under the procedures and substantive criteria in WAC 388-96-774 as employed for all Medicaid facilities reimbursed under this chapter.

(f) Any adjustments for economic trends and conditions in any cost center, effective July 1, 1994 for Medicaid contractors under the provisions of this chapter, shall be extended to the DVA facilities as well.

(g) The DVA facilities shall submit annual facility cost reports on department forms, and according to department instructions applicable to all facilities, for 1993 and for 1994, and settlements for each of these years shall be completed for each DVA facility, with final payment being made at the lower of cost or rate, after all allowable cost center shifting, as for all Medicaid facilities reimbursed under this chapter.

(2) For July 1, 1995 rate setting and following, all rate-setting principles applicable to the DVA facilities shall be developed by the department.) Payment rates to nursing facilities operated by the state of Washington, department of veterans' affairs shall be determined in accordance with chapter 74.46 RCW and this chapter as for all other facilities.

AMENDATORY SECTION (Amending Order 3185, filed 5/31/91, effective 7/1/91)

WAC 388-96-760 Upper limits to ~~((reimbursement))~~ the payment rate. The average ~~((reimbursement))~~ rate for the cost report year shall not exceed the contractor's average customary charges to the general public for the services covered by the rate for the same time period ~~((, except that))~~. The department will pay public facilities rendering such services free of charge or at a nominal charge ~~((will be reimbursed))~~ according to the methods and standards set out in this chapter. The contractor shall provide as part of the annual cost report a statement of the average charges for the cost report year for services covered by the payment rate and supporting computations and documentation. The contractor shall immediately inform the department if its ~~((reimbursement))~~ payment rate does exceed customary charges for comparable services. If necessary, the department will adjust the payment rate ~~((will be adjusted))~~ in accordance with ~~((WAC 388-96-769))~~ chapter 74.46 RCW as amended by section 31 of E2SHB 2935, chapter 322, Laws of 1998.

AMENDATORY SECTION (Amending WSR 97-17-040, filed 8/14/97, effective 9/14/97)

WAC 388-96-776 Add-ons to the ~~((prospective))~~ payment rate—Capital improvements. (1) The department shall grant an add-on to a ~~((prospective))~~ payment rate for any capitalized additions or replacements made as a condition for licensure or certification; *provided*, the net rate effect is ten cents per patient day or greater.

(2) The department shall grant an add-on to a prospective rate for capitalized improvements done under ~~((RCW 74.46.465))~~ chapter 74.46 RCW as amended by E2SHB 2935 (section 19(12), chapter 322, Laws of 1998); *provided*, the legislature specifically appropriates funds for capital improvements for the biennium in which the request is made and the net rate effect is ten cents per patient day or greater. Physical plant capital improvements include, but are not limited to, capitalized additions, replacements or renovations made as a result of an approved certificate of need or exemption from the requirements for certificate of need for the replacement of existing nursing ~~((home))~~ facility beds pursuant to RCW 70.38.115 (13)(a) or capitalized additions or renovations for the removal of physical plant waivers.

(3) Rate add-ons granted pursuant to subsection (1) ~~((;))~~ or (2) ~~((or (16)))~~ of this section shall be limited in total amount each fiscal year to the total current legislative appropriation, if any, specifically made to fund the Medicaid share of such rate add-ons for the fiscal year. Rate add-ons are subject to the provisions of RCW 74.46.421.

(4) When physical plant improvements made under subsection (1) or (2) of this section are completed in phases, the department shall not grant a rate add-on for any addition, replacement or improvement until each phase is completed and fully utilized for which it was intended. The department shall limit rate add-on to only the actual cost of the depreciable tangible assets meeting the criteria of ~~((WAC 388-96-557))~~ RCW 74.46.330 and as applicable to that specific completed and fully utilized phase.

(5) When the construction class of any portion of a newly constructed building will improve as the result of any addition, replacement or improvement occurring in a later, but not yet completed and fully utilized phase of the project, the most appropriate construction class, as applicable to that completed and fully utilized phase, will be assigned for purposes of calculating the rate add-on. The department shall not revise the rate add-on retroactively after completion of the portion of the project that provides the improved construction class. Rather, the department shall calculate a new rate add-on when the improved construction class phase is completed and fully utilized and the rate add-on will be effective in accordance with subsection (9) of this section using the date the class was improved.

(6) The department shall not add on construction fees as defined in WAC ~~((388-96-745(6)))~~ 388-96-747 and other capitalized allowable fees and costs as related to the completion of all phases of the project to the rate until all phases of the entire project are completed and fully utilized for the purpose it was made. At that time, the department shall add on these fees and costs to the rate, effective no earlier than the earliest date a rate add-on was established specifically for any phase of this project. If the fees and costs are incurred in a later phase of the project, the add-on to the rate will be effective on the same date as the rate add-on for the actual cost of the tangible assets for that phase.

(7) The contractor requesting an adjustment under subsection (1) or (2) shall submit a written request to the office of rates management separate from all other requests and inquiries of the department, e.g., WAC 388-96-904 (1) and (5). A complete written request shall include the following:

(a) A copy of documentation requiring completion of the addition or replacements to maintain licensure or certification for adjustments requested under subsection (1) of this section;

(b) A copy of the new bed license, whether the number of licensed beds increases or decreases, if applicable;

(c) All documentation, e.g., copies of paid invoices showing actual final cost of assets and/or service, e.g., labor purchased as part of the capitalized addition or replacements;

(d) Certification showing the completion date of the capitalized additions or replacements and the date the assets were placed in service per ~~((WAC 388-96-559(2)))~~ RCW 74.46.360;

(e) A properly completed depreciation schedule for the capitalized additions or replacement as provided in this chapter;

(f) A written justification for granting the rate increase; and

(g) For capitalized additions or replacements requiring certificate of need approval, a copy of the approval and description of the project.

(8) The department's criteria used to evaluate the request may include, but is not limited to:

(a) The remaining functional life of the facility and the length of time since the facility's last significant improvement;

(b) The amount and scope of the renovation or remodel to the facility and whether the facility will be better able to serve the needs of its residents;

(c) Whether the improvement improves the quality of living conditions of the residents;

(d) Whether the improvement might eliminate life safety, building code, or construction standard waivers;

(e) Prior survey results; and

(f) A review of the copy of the approval and description of the project.

(9) The department shall not grant a rate add-on effective earlier than sixty days prior to the receipt of the initial written request by the office of rates management and not earlier than the date the physical plant improvements are completed and fully utilized. The department shall grant a rate add-on for an approved request as follows:

(a) If the physical plant improvements are completed and fully utilized during the period from the first day to the fifteenth day of the month, then the rate will be effective on the first day of that month; or

(b) If the physical plant improvements are completed and fully utilized during the period from the sixteenth day and the last day of the month, the rate will be effective on the first day of the following month.

(10) If the initial written request is incomplete, the department will notify the contractor of the documentation and information required. The contractor shall submit the requested information within fifteen calendar days from the date the contractor receives the notice to provide the information. If the contractor fails to complete the add-on request by providing all the requested documentation and information within the fifteen calendar days from the date of receipt of notification, the department shall deny the request for failure to complete.

(11) If, after the denial for failure to complete, the contractor submits a written request for the same project, the date of receipt for the purpose of applying subsection (9) of this section will depend upon whether the subsequent request for the same project is complete, i.e., the department does not have to request additional documentation and information in order to make a determination. If a subsequent request for funding of the same project is:

(a) Complete, then the date of the first request may be used when applying subsection (9) of this section; or

(b) Incomplete, then the date of the subsequent request must be used when applying subsection (9) of this section even though the physical plant improvements may be completed and fully utilized prior to that date.

(12) The department shall respond, in writing, not later than sixty calendar days after receipt of a complete request.

(13) If the contractor does not use the funds for the purpose for which they were granted, the department shall immediately recoup the misspent or unused funds.

(14) When any physical plant improvements made under subsection (1) or (2) of this section results in a change in licensed beds, any rate add-on granted will be subject to the provisions regarding the number of licensed beds, patient days, occupancy, etc., included in this chapter and chapter 74.46 RCW.

(15) All rate components to fund the Medicaid share of nursing facility new construction or refurbishing projects costing in excess of one million two hundred thousand dollars, or projects requiring state or federal certificate of need

approval, shall be based upon a minimum facility occupancy of eighty-five percent for the ~~((nursing services, food, administrative, operational))~~ direct care, therapy care, support services, operations and property cost centers, and the return on investment (ROI) rate component, during the initial rate period in which the adjustment is granted. These same component rates shall be based upon a minimum facility occupancy of ~~((ninety))~~ eighty-five percent for all rate periods after the initial rate period.

(16) ~~((If a rate add-on granted under the authority of this section for a capitalized addition or replacement results in an increase in property taxes, the department may grant an additional rate add-on to fund the Medicaid share of any increase in property taxes. A rate add-on granted under this subsection shall be effective the first day of the month the tax increase is effective.))~~ When a capitalized addition or replacement results in an increased licensed bed capacity during the calendar year following the capitalized addition or replacement:

(a) The department shall for:

(i) Property, use the facility's anticipated resident occupancy level subsequent to the increase in licensed bed capacity; and

(ii) The financing allowance, multiply the net invested funds by ten percent and divide by the facility's anticipated resident occupancy level subsequent to the increase in licensed bed capacity; and

(b) The anticipated resident occupancy for the increased number of beds must be at or above eighty-five percent. Subject to the provisions of this chapter and chapter 74.46 RCW, in no case shall the department use less than eighty-five percent occupancy of the facility's increased licensed bed capacity.

AMENDATORY SECTION (Amending Order 3896, filed 9/12/95, effective 10/13/95)

WAC 388-96-901 Disputes. (1) ~~((If a reimbursement rate issued to a contractor is believed to be incorrect because it is based on errors or omissions by the contractor or department, the contractor may request an adjustment pursuant to WAC 388-96-769.))~~ Pursuant to WAC 388-96-904(1), a contractor may ~~((within twenty-eight days))~~ request an administrative review conference within twenty-eight calendar days after notification of ~~((an adjustment or refusal to adjust))~~ a department action.

(2) ~~((For all nursing facility prospective Medicaid payment rates effective on or after July 1, 1995, and for all settlements and audits issued on or after July 1, 1995, regardless of what periods the settlements or audits may cover.))~~ If a contractor wishes to contest the way in which a statute or department rule relating to the nursing facility Medicaid payment ((rate)) system was applied to the contractor by the department, ~~((e.g., in setting a payment rate or determining a disallowance at audit, it))~~ the contractor shall pursue the administrative review process ~~((set out))~~ prescribed in WAC 388-96-904.

(a) Adverse actions taken under the authority of this chapter or chapter 74.46 RCW subject to administrative review under WAC 388-96-904 include but are not limited to:

- (i) Determining a nursing facility payment rate;
- (ii) Calculating a nursing facility settlement;
- (iii) Imposing a civil fine on the nursing facility;
- (iv) Suspending payment to the nursing facility; or
- (v) Refusing to contract with the nursing facility.

(b) Adverse actions taken under the authority of this chapter or chapter 74.46 RCW not subject to administrative review under WAC 388-96-904 include but are not limited to those taken under the authority of RCW 74.46.421 and sections of this chapter implementing RCW 74.46.421.

(3) ((If a contractor wishes to challenge the legal validity of a statute, rule or contract provision or wishes to bring a challenge based in whole or in part on federal law, including but not limited to issues of procedural or substantive compliance with the federal Medicaid minimum payment standard known as the Boren Amendment, found at 42 USC 1396a (a)(13)(A) and in federal regulation, as it applies to long term care facility services, the administrative review procedure authorized in WAC 388-96-904 may not be used for these purposes. This prohibition shall apply regardless of whether the contractor wishes to obtain a decision or ruling on an issue of validity or federal compliance or wishes only to make a record for the purpose of subsequent judicial review.)) The administrative review process prescribed in WAC 388-96-904 shall not be used to contest or review unrelated or ancillary department actions, whether review is sought to obtain a ruling on the merits of a claim or to make a record for subsequent judicial review or other purpose. If an issue is raised that is not subject to review under WAC 388-96-904, the presiding office shall dismiss such issue with prejudice to further review under the provisions of WAC 388-96-904, but without prejudice to other administrative or judicial review as may be provided by law. Unrelated or ancillary actions not eligible for administrative review under WAC 388-96-904 include but are not limited to:

(a) Challenges to the adequacy or validity of the public process followed by department in proposing or making a change to the nursing facility Medicaid payment rate methodology, as required by 42 U.S.C. 1396a (a)(13)(A) and WAC 388-96-718;

(b) Challenges to the nursing facility Medicaid payment system that are based in whole or in part on federal laws, regulations, or policies;

(c) Challenges to a contractor's rate that are based in whole or in part of federal laws, regulations, or policies;

(d) Challenges to the legal validity of a statute or regulation;

(e) Issues relating to case mix accuracy review of minimum data set (MDS) nursing facility resident assessments, which shall be limited to separate administrative review under the provisions of WAC 388-96-905.

(f) Quarterly rate updates to reflect changes in a facility's resident case mix; and

(g) Issues relating to any action of the department affecting a Medicaid beneficiary or provider that were not commenced by the office of rates management, aging and adult services administration, for example, entitlement to or payment for durable medical equipment or other services.

(4) If a contractor wishes to challenge the legal validity of a statute((-rule)) or ((contract provision)) regulation relat-

ing to the nursing facility Medicaid payment ((rate)) system, or wishes to bring a challenge based in whole or in part on federal law, it must bring such action de novo in a court of proper jurisdiction as may be provided by law.

AMENDATORY SECTION (Amending WSR 96-15-056, filed 7/16/96, effective 8/16/96)

WAC 388-96-904 Administrative review—Adjudicative proceeding. (1) ~~((The provisions of this section shall apply to administrative review of all nursing facility payment rates effective on and after July 1, 1995, and to administrative review of all audits and settlements issued on or after this date, regardless of what payment period the audit or settlement may cover.))~~ Contractors seeking to appeal or take exception to an action or determination of the department, under authority of this chapter or chapter 74.46 RCW, relating to the contractor's payment rate, audit or settlement, or otherwise affecting the level of payment to the contractor, or seeking to appeal or take exception to any other adverse action taken under authority of this chapter or chapter 74.46 RCW eligible for administrative review under this section, shall request an administrative review conference in writing within twenty-eight calendar days after receiving notice of the department's action or determination. The department shall deem the contractor ~~((shall be deemed))~~ to have received the department's notice five calendar days after the date of the notification letter, unless proof of the date of receipt of the department's notification letter exists, ~~((then))~~ in which case the actual date of receipt shall be used to determine timeliness of the contractor's request for an administrative review conference. The contractor's request for administrative review shall:

(a) Be signed by the contractor or by a partner, officer, or authorized employee of the contractor((-shall));

(b) State the particular issues raised; and

(c) Include all necessary supporting documentation or other information.

(2) After receiving a request for administrative review conference that meets the criteria in subsection (1) of this section, the department shall schedule an administrative review conference ~~((to be held within ninety calendar days after receiving the contractor's request. By agreement this time may be extended up to sixty additional days, but a conference shall not be scheduled or held beyond one hundred fifty calendar days after the department receives the contractor's request for administrative review.))~~. The conference may be conducted by telephone.

(3) At least fourteen calendar days prior to the scheduled date of the administrative review conference, the contractor must supply ~~((the))~~ any additional or supporting documentation or information upon which the contractor intends to rely in presenting its case. In addition, the department may request at any time prior to issuing a ~~((decision))~~ determination any documentation or information needed to decide the issues raised, and the contractor must comply with such a request within fourteen calendar days after it is received. The department may extend this period ((may be extended)) up to fourteen additional calendar days for good cause shown if the contractor requests an extension in writing received by the

department before expiration of the initial fourteen-day period. The department shall dismiss issues ((which)) that cannot be decided or resolved due to a contractor's failure to provide requested documentation or information within the required period ((shall be dismissed)).

(4) The department shall, within sixty calendar days after ~~((the))~~ conclusion of the conference, render a ~~((decision))~~ determination in writing addressing the issues raised ~~((unless))~~. If the department is waiting for additional documentation or information promised by or requested from the contractor pursuant to subsection (3) of this section, ~~((in which case))~~ the sixty-day period shall not commence until the department's receipt of such documentation or information or until expiration of the time allowed to provide it. The ~~((decision))~~ determination letter shall include a notice of dismissal of all issues which cannot be decided due to ~~((missing))~~ a contractor's failure to provide documentation or information promised or requested.

(5) A contractor seeking further review of a ~~((decision))~~ determination issued pursuant to subsection (4) of this section ~~((:~~

~~((a))~~ shall ((request)) apply for an adjudicative proceeding, in writing, signed by one of the individuals authorized by subsection (1) of this section, within twenty-eight calendar days after receiving the department's administrative review conference determination letter ~~((:an))~~. A review judge or other presiding officer employed by the department's board of appeals shall conduct the adjudicative proceeding ((to be conducted by a presiding officer employed by the department's office of appeals; or

~~((b))~~ Shall file, in the event the parties are able to stipulate to a record that can serve as the record for judicial review, a petition for judicial review pursuant to RCW 34.05.570(4)).

The contractor shall be deemed to have received notice of the department's ~~((administrative review conference))~~ determination five calendar days after the date of the administrative review determination letter, unless proof of the date of receipt of the ~~((department's administrative review determination))~~ letter exists, ~~((then))~~ in which case the actual date of receipt shall be used to determine timeliness of the contractor's ~~((request))~~ application for an adjudicative proceeding. The contractor shall attach to its ~~((request))~~ application for an adjudicative proceeding the department's administrative review conference determination letter. A contractor's application for an adjudicative proceeding shall be addressed to the department's board of appeals.

(6) Except as authorized by subsection (7) of this section, the scope of an adjudicative proceeding shall be limited to the issues specifically raised by the contractor at the administrative review conference ~~((:))~~ and addressed on the merits in the department's administrative review conference determination letter ~~((and stated in the contractor's request for adjudicative proceeding))~~. The contractor shall be deemed to have waived all issues ~~((which))~~ or claims that could have been raised by the contractor relating to the challenged determination or action, but which were not pursued at the conference ~~((:))~~ and not addressed in the department's administrative review conference determination letter ~~((:and stated in the contractor's request for adjudicative proceeding))~~. In its request for an

adjudicative proceeding or as soon as practicable, the contractor must specify its issues.

(7) If the contractor wishes to have further review of any issue not addressed on its merits, but instead dismissed ((by)) in the department's administrative review conference determination letter, for failure to supply needed, promised, or requested additional information or documentation, or because the department has concluded the request was untimely or otherwise procedurally defective, the issue shall be considered by the presiding officer for the purpose of upholding the department's dismissal, reinstating the issue and remanding for further agency staff action, or reinstating the issue and rendering a decision on the merits.

(8) An adjudicative proceeding shall be conducted in accordance with this chapter, chapter 388-08 WAC and chapter 34.05 RCW. In the event of a conflict between the provisions of this chapter and chapter 388-08 WAC, the provisions of this chapter and chapter 74.46 RCW shall prevail. The presiding officer assigned by the department's ~~((office))~~ board of appeals to conduct an adjudicative proceeding and who conducts the proceeding shall render the final agency decision.

(9) At the time an adjudicative proceeding is being scheduled for a future time and date certain, or at any appropriate stage of the prehearing process, the presiding officer shall have authority, upon the motion of either party or the presiding officer's own motion, to compel either party to identify specific issues remaining to be litigated.

(10) If the presiding officer determines there is no material issue(s) of fact to be resolved in a case, the presiding officer shall have authority, upon the motion of either party or the presiding officer's own motion, to decide the issue(s) presented without convening or conducting an in-person evidentiary hearing. In such a case, the decision may be reached on documentation admitted to the record, party admissions, written or oral stipulation(s) of facts, and written or oral argument.

(11) The ~~((office))~~ board of appeals shall issue an order dismissing an adjudicative proceeding requested under subsection (5) ~~((a))~~ of this section, unless within two hundred seventy calendar days after the ~~((office))~~ board of appeals receives the application ~~((or request))~~ for an adjudicative proceeding:

(a) All issues have been resolved by a written settlement agreement between the contractor and the department signed by both and filed with the ~~((office))~~ board of appeals; or

(b) An adjudicative proceeding has been held for all issues not resolved and the evidentiary record, including all rebuttal evidence and post-hearing or other briefing, is closed.

This time limit may be extended one time thirty additional calendar days for good cause shown upon the motion of either party made prior to the expiration of the initial two hundred seventy day period. It shall be the responsibility of the contractor to request that hearings be scheduled and ensure that settlement agreements are signed and filed with the ~~((office))~~ board of appeals in order to comply with the time limit set forth in this subsection.

~~((10))~~ (12) Any party dissatisfied with a decision or an order of dismissal of the ~~((office))~~ board of appeals may file a petition for reconsideration within ten calendar days after

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the decision or order of dismissal is served on such party. The petition shall state the specific grounds upon which relief is sought. The time for seeking reconsideration may be extended by the presiding officer for good cause upon motion of either party. The presiding officer shall rule on a petition for reconsideration and may seek additional argument, briefing, testimony, or other evidence if deemed necessary. Filing a petition for reconsideration shall not be a requisite for seeking judicial review; however, if a petition is filed by either party, the agency decision shall not be deemed final until a ruling is made by the presiding officer.

~~((11))~~ (13) A contractor dissatisfied with a decision or an order of dismissal of the ~~((office))~~ board of appeals may file a petition for judicial review pursuant to RCW 34.05.570(3) or other applicable authority.

NEW SECTION

WAC 388-96-905 Case mix accuracy review of MDS nursing facility resident assessments. (1) The department shall perform periodic nursing facility on-site accuracy reviews of minimum data set (MDS) assessments of nursing facility residents, for the purpose of verifying the accuracy of facility case mix data used to establish and update Medicaid payment rates, and for other purposes the department may deem appropriate.

(2) Contractors, their representatives, and authorized nursing facility personnel may ask questions and raise concerns with the quality assurance nurse (QAN) or other designated department representative at the time a case mix accuracy review is conducted. Contractors, their representatives and authorized nursing facility personnel should attempt to resolve any differences and provide additional documentation, information or clarification prior to the case mix accuracy review exit conference.

(3) Upon completing a case mix accuracy review, the QAN shall hold an exit conference to inform the facility of the QAN's observations and preliminary findings. MDS inaccuracies, if any, will be identified and the findings that substantiate these inaccuracies shall be described.

(4) Within five working days after the case mix accuracy review exit conference is held, the nursing facility district manager (DM) for the facility's district shall send the case mix accuracy review decision letter to the nursing facility administrator at the facility address. The case mix accuracy review decision letter shall be sent certified mail, return receipt requested, shall describe in detail the QAN's findings, and shall identify the:

- (a) Resident assessments that were reviewed;
- (b) RUG-III or other applicable case mix grouping that was determined for the resident assessments reviewed;
- (c) Changes in assigned classification, if any, that were made for residents whose assessments were reviewed;
- (d) Right of the contractor to appeal any disagreement with the case mix accuracy review decision to the department's case mix accuracy review administrator or his or her delegate:
 - (i) Where to send an appeal request; and
 - (ii) The time limit for requesting an appeal.

(5) If the contractor intends to appeal the DM's case mix accuracy review decision letter, the appeal request must be in writing and mailed to the department's case mix accuracy administrator within ten calendar days after receipt of the case mix accuracy review decision letter. The appeal request letter shall:

- (a) Be signed by the contractor or by a partner, officer, or authorized employee of the contractor;
- (b) State the particular issue(s) raised, including any explanation or basis for disagreeing with the department's findings or actions.

(6) Prior to the informal administrative hearing, the case mix accuracy review administrator shall have no involvement in the case mix accuracy review decision.

(7) Upon receiving a timely appeal request, the administrator shall review any documentation and information submitted with the request, and contact the contractor by telephone to schedule an informal administrative hearing. The purpose of this informal hearing is to give the contractor one opportunity to present information which might warrant modification or deletion of resident-specific accuracy findings resulting from the case mix accuracy review. Issues other than clinical issues of resident need and assessment shall not be considered or addressed. Nonclinical issues beyond the scope of appeal include, but are not limited to:

- (a) Any remedies or negative actions imposed by the department to rectify practices or inaccuracies;
- (b) Alleged inconsistencies in the accuracy review process;
- (c) Challenges to the authority or adequacy of the case mix accuracy review process; and
- (d) Payment rate issues or other adverse actions subject to review under WAC 388-96-904.

(8) On or before the informal hearing date, the contractor must submit all necessary supporting documentation or other information to the case mix accuracy review administrator. The administrator may request additional information or documentation from the contractor at any time before issuing the final, informal hearing decision. The contractor shall provide all information or documentation within the time limits established by this section, or by the administrator. In the event that the contractor fails to submit the required documentation for a claim or issue within the specified time limits, the accuracy review administrator shall dismiss the claim or issue with prejudice.

(9) The informal case mix accuracy review administrative hearing shall be conducted in person, unless both the contractor and the department agree that it can be conducted by telephone.

(10) Within ten days after the informal administrative hearing or within ten days after receipt of any additional information or documentation requested, whichever is later, the case mix accuracy review administrator shall send the appeal decision in writing to the nursing facility administrator at the facility address. The appeal decision letter shall be sent regular mail and shall:

- (a) Be the final agency decision of the department;
- (b) Be based on the independent judgment of the case mix accuracy review administrator who conducted the infor-

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mal administrative hearing and reviewed all information and documentation; and

(c) Recite the right of the contractor to seek judicial review under the state's Administrative Procedure Act (chapter 34.05 RCW).

(11) A contractor dissatisfied with the final agency decision issued by the case mix accuracy review administrator may file a petition for judicial review pursuant to RCW 34.05.570(3) or other applicable authority.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-96-023	Conditions of participation.	WAC 388-96-508	Travel expenses for members of trade association boards of directors.
WAC 388-96-029	Change of ownership.	WAC 388-96-509	Boards of directors fees.
WAC 388-96-032	Termination of contract.	WAC 388-96-513	Limit on costs to related organizations.
WAC 388-96-101	Reports.	WAC 388-96-521	Start-up costs.
WAC 388-96-104	Due dates for reports.	WAC 388-96-523	Organization costs.
WAC 388-96-110	Improperly completed or late reports.	WAC 388-96-529	Total compensation—Owners, relatives, and certain administrative personnel.
WAC 388-96-113	Completing reports and maintaining records.	WAC 388-96-531	Owner or relative—Compensation.
WAC 388-96-128	Requirements for retention of records by the contractor.	WAC 388-96-533	Maximum allowable compensation of certain administrative personnel.
WAC 388-96-131	Requirement for retention of reports by the department.	WAC 388-96-543	Expense for construction interest.
WAC 388-96-134	Disclosure of nursing home reports.	WAC 388-96-555	Depreciation expense.
WAC 388-96-204	Field audits.	WAC 388-96-557	Depreciable assets.
WAC 388-96-207	Preparation for audit by the contractor.	WAC 388-96-567	Methods of depreciation.
WAC 388-96-210	Scope of field audits.	WAC 388-96-569	Retirement of depreciable assets.
WAC 388-96-213	Inadequate documentation.	WAC 388-96-571	Handling of gains and losses upon retirement of depreciable assets settlement periods prior to 1/1/81 and rate periods prior to 7/1/82.
WAC 388-96-220	Principles of settlement.	WAC 388-96-573	Recovery of excess over straight-line depreciation.
WAC 388-96-221	Preliminary settlement.	WAC 388-96-716	Cost areas or cost centers.
WAC 388-96-224	Final settlement.	WAC 388-96-717	Desk review adjustments.
WAC 388-96-226	Shifting provisions.	WAC 388-96-719	Method of rate determination.
WAC 388-96-228	Cost savings.	WAC 388-96-722	Nursing services cost area rate.
WAC 388-96-229	Procedures for overpayments and underpayments.	WAC 388-96-727	Food cost area rate.
WAC 388-96-501	Allowable costs.	WAC 388-96-735	Administrative cost area rate.
WAC 388-96-503	Substance prevails over form.	WAC 388-96-737	Operational cost area rate.
WAC 388-96-507	Costs of meeting standards.	WAC 388-96-745	Property cost area reimbursement rate.
		WAC 388-96-752	Documentation of leased assets.
		WAC 388-96-754	A contractor's return on investment.
		WAC 388-96-761	Home office, central office, and other off-premises assets.

WAC 388-96-763	Rates for recipients requiring exceptionally heavy care.
WAC 388-96-764	Activities assistants.
WAC 388-96-765	Ancillary care.
WAC 388-96-768	Minimum wage.
WAC 388-96-769	Adjustments required due to errors or omissions.
WAC 388-96-774	Add-ons to the prospective rate—Staffing.
WAC 388-96-778	Public disclosure of rate-setting methodology.
WAC 388-96-801	Billing period.
WAC 388-96-804	Billing procedures.
WAC 388-96-807	Charges to patients.
WAC 388-96-810	Payment.
WAC 388-96-813	Suspension of payment.
WAC 388-96-816	Termination of payments.

WSR 98-15-142
PROPOSED RULES
SOUTHWEST AIR POLLUTION
CONTROL AUTHORITY

[Filed July 22, 1998, 9:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-12-010.

Title of Rule: SWAPCA 400 - General Regulations for Air Pollution Sources.

SWAPCA 400-030 Definitions, the purpose of this section is to provide definitions for commonly used words or phrases in the rest of the regulation.

SWAPCA 400-040 General Standards for Maximum Emissions, the purpose of this section is to provide a minimum set of air emission standards for all sources.

SWAPCA 400-052 Stack Sampling of Major Combustion Sources, the purpose of this section is to provide a minimum set of air emission standards for sampling emissions from major combustion sources.

SWAPCA 400-060 Emission Standards for General Process Units, the purpose of this section is to provide a minimum set of air emission standards for general process units.

SWAPCA 400-070 Emission Standards for Certain Source Categories, the purpose of this section is to provide a minimum set of air emission standards for sampling emissions from certain defined source categories and activities.

SWAPCA 400-075 Emission Standards for Sources Emitting Hazardous Air Pollutants, the purpose of this section is to adopt by reference the federal standards relating to hazardous air pollutant standards referred to generally as the MACT standards.

SWAPCA 400-076 Emission Standards for Sources Emitting Toxic Air Pollutants, the purpose of this section is to provide a reference to the toxic air pollutant rule and describe the permitting process.

SWAPCA 400-091 Voluntary Limits on Emissions, the purpose of this section is to provide a mechanism and process for sources to request a voluntary limit on emissions from their sources.

Purpose: See above.

Statutory Authority for Adoption: RCW 70.94.141.

Statute Being Implemented: RCW 70.94.141.

Summary: SWAPCA 400-030 Definitions, this section is the placeholder for definitions of words and phrases used throughout SWAPCA 400. Most definitions are identical to the federal definitions.

SWAPCA 400-040 General Standards for Maximum Emissions, this section contains the visible emission standard of 20% opacity, and other limits for fallout, fugitive emissions, odors, emissions detrimental to persons or property, sulfur dioxide, concealment and masking and fugitive dust sources.

SWAPCA 400-052 Stack Sampling of Major Combustion Sources, this section contains requirements for stack sampling of major combustion sources every two years to assist with preparation of the emission inventory which is submitted to EPA each year by SWAPCA.

SWAPCA 400-060 Emission Standards for General Process Units, this section identifies the maximum emission standard of 0.1 grains per dry standard cubic feet of exhaust gas for any general process operation.

SWAPCA 400-070 Emission Standards for Certain Source Categories, this section [provides] additional emission standards and requirements for certain source categories including wigwam burners, hog fuel boilers, orchard heaters, catalytic cracking units, sulfuric acid plants, gasoline dispensing facilities, dry cleaning facilities and abrasive blasting operations.

SWAPCA 400-075 Emission Standards for Sources Emitting Hazardous Air Pollutants, this section adopts the federal standards for sources emitting hazardous air pollutants contained in 40 CFR part 61 and part 63 by reference (MACT standards) as requirements for sources in SWAPCA jurisdiction for local implementation and enforcement.

SWAPCA 400-076 Emission Standards for Sources Emitting Toxic Air Pollutants, this section describes general requirements for toxic pollutant emission sources and provides a reference to the toxics rule chapter 173-460 WAC which is adopted by reference by SWAPCA under separate rule making.

SWAPCA 400-091 Voluntary Limits on Emissions, this section provides the authority and describes the process for a source to request a voluntary limit on emissions. This section provides the ability to have a federally enforceable emission limit to keep out of the Title 5 Operating Permit program.

Reasons Supporting Proposal: See above.

Name of Agency Personnel Responsible for Drafting and Implementation: Paul Mairose, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA, (360) 374-3058 [574-3058]; and Enforcement: Robert D.

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Elliott, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA, (360) 574-3058.

Name of Proponent: Southwest Air Pollution Control Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: SWAPCA 400-030 Definitions, this is an existing section. Proposed changes include adding more language to the definition of "air contaminant" to include "criteria pollutant"; updating dates of adoption for references to existing federal rules; adding a new definition for "PM_{2.5}" and "pollutant"; and adding additional substances to the exempt list of items for the definition of "volatile organic compound" consistent with the federal definition.

SWAPCA 400-040 General Standards for Maximum Emissions, this is an existing section. The proposed change is to add reference to a proposed method (SWAPCA Method 9 as an attachment to SWAPCA 400) for determining visible emissions. The method is similar to EPA Method 9 but contains the Washington state standard for data reduction. In addition, SWAPCA is proposing to delete the exemption for sources which are not capable of meeting the state standard for sulfur dioxide. Currently all sources in SWAPCA jurisdiction are capable of meeting the state standard.

SWAPCA 400-052 Stack Sampling of Major Combustion Sources, this is an existing rule. The proposed change is to add reference to SWAPCA 400-106 which contains requirements on how to perform emissions sampling.

SWAPCA 400-060 Emission Standards for General Process Units, this is an existing rule. The proposed change is to update the adoption date of the federal standard for source testing methods.

SWAPCA 400-070 Emission Standards for Certain Source Categories, this is an existing rule. The proposed changes are to remove reference to SWAPCA 400-110(8) for gasoline dispensing facilities because this section is proposed to be removed from the rules, and to adopt a new rule for dry cleaning operations to be consistent with the existing federal requirements.

SWAPCA 400-075 Emission Standards for Sources Emitting Hazardous Air Pollutants, this is an existing rule. The proposed changes include updating the adoption date of the federal standards for hazardous air pollutants and include source categories for which new federal standards have been promulgated.

SWAPCA 400-076 Emission Standards for Sources Emitting Toxic Air Pollutants, this is an existing rule. The proposed changes are to change the reference from SWAPCA 460 to chapter 173-460 WAC to be more precise about the adoption status by SWAPCA of the existing state rule.

SWAPCA 400-091 Voluntary Limits on Emissions, this is an existing rule. The proposed change is to add language to clarify that a voluntary limit may be requested for a process parameter of throughput in addition to emissions of air pollutants.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes proposed by the Southwest Air Pollution Control Authority are consistent with federal or state rules already in effect. This agency is not subject to the small business economic impact provision of chapter 19.85 RCW. A fiscal analysis has been performed to establish the basis for any proposed fee increases. Copies of this analysis are available at the Southwest Air Pollution Control Authority.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Southwest Air Pollution Control Authority is not voluntarily invoking section 201, chapter 403, Laws of 1995.

Hearing Location: Office of the Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA 98685, on October 1, 1998, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Mary Allen by September 29, 1998, TDD (360) 574-3058.

Submit Written Comments to: Paul T. Mairose, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA 98685, fax (360) 576-0925, by September 22, 1998.

Date of Intended Adoption: October 1, 1998.

July 22, 1998

Robert D. Elliott
Executive Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 98-16 issue of the Register.

WSR 98-15-143

PROPOSED RULES

SOUTHWEST AIR POLLUTION CONTROL AUTHORITY

[Filed July 22, 1998, 9:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-12-010.

Title of Rule: SWAPCA 400 - General Regulations for Air Pollution Sources.

SWAPCA 400-101 Sources Exempt from Registration Requirements, the purpose of this section is to identify those sources which are exempt from the registration and new source review requirements of SWAPCA 400-100 and SWAPCA 400-110.

SWAPCA 400-105 Records, Monitoring and Reporting, the purpose of this section is to identify the requirements for sources to submit an emission inventory, conduct monitoring and perform emission sampling and reporting.

SWAPCA 400-106 Emission Testing at Sources, the purpose of this section is to provide a minimum set of standards for sampling emissions from all sources.

SWAPCA 400-109 Notice of Construction Application, the purpose of this section is to provide requirements for submittal and a description of the process for submitting a Notice of Construction application.

SWAPCA 400-111 Requirements for Sources in a Maintenance Plan Area, the purpose of this section is to identify the requirements for new or modified sources in a maintenance plan area. Because of the maintenance plan status of an area, emission standards to maintain air quality in a maintenance plan area are more demanding than those in less populated or industrialized areas.

SWAPCA 400-112 Requirements for Sources in Nonattainment Areas, the purpose of this section is to identify the requirements for new or modified sources in nonattainment areas for permitting purposes. This section also includes provisions for offsetting emissions for larger emission sources.

SWAPCA 400-113 Requirements for Sources in Attainment or Nonclassifiable Areas, the purpose of this section is to identify the requirements for new or modified sources in attainment areas for permitting purposes.

SWAPCA 400-115 Standards of Performance for New Sources, the purpose of this section is to adopt by reference the New Source Performance Standards (NSPS) contained in 40 CFR 60 for certain sources categories.

Purpose: See above.

Statutory Authority for Adoption: RCW 70.94.141.

Statute Being Implemented: RCW 70.94.141.

Summary: SWAPCA 400-101 Sources Exempt from Registration Requirements, this section identifies those sources which are exempt from the registration and new source review requirements of SWAPCA 400-100 and SWAPCA 400-110.

SWAPCA 400-105 Records, Monitoring and Reporting, this section identifies the requirements for sources to submit an emission inventory, conduct monitoring and perform emission sampling.

SWAPCA 400-106 Emission Testing at Sources, this section provides a minimum set of standards for sampling and reporting emissions from all sources.

SWAPCA 400-109 Notice of Construction Application, this section identifies requirements for submittal of a Notice of Construction and a description of the process for submitting a Notice of Construction application.

SWAPCA 400-111 Requirements for Sources in a Maintenance Plan Area, this section identifies the requirements for new or modified sources in a maintenance plan area. Because of the maintenance plan status of an area, emission standards to maintain air quality in a maintenance plan area are more demanding than those in less populated or industrialized areas.

SWAPCA 400-112 Requirements for Sources in Nonattainment Areas, this section identifies the requirements for new or modified sources in nonattainment areas for permitting purposes. This section also includes provisions for offsetting emissions for larger emission sources.

SWAPCA 400-113 Requirements for Sources in Attainment or Nonclassifiable Areas, this section identifies the new source review requirements and emission standards for new or modified sources in attainment areas.

SWAPCA 400-115 Standards of Performance for New Sources, this section adopts by reference the New Source Performance Standards (NSPS) contained in 40 CFR 60 for identified sources categories.

Reasons Supporting Proposal: See above.

Name of Agency Personnel Responsible for Drafting and Implementation: Paul Mairose, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA, (360) 374-3058 [574-3058]; and Enforcement: Robert D. Elliott, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA, (360) 574-3058.

Name of Proponent: Southwest Air Pollution Control Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: SWAPCA 400-101 Sources Exempt from Registration Requirements, this is an existing rule. Proposed modifications are to change the reference from SWAPCA 460 to chapter 173-460 WAC to reflect the fact that SWAPCA adopts the WAC by reference and therefore clarifies the requirement for the reader. In addition, the exemption for fuel burning equipment has been clarified to describe "office" space heating as the identified exemption.

SWAPCA 400-105 Records, Monitoring and Reporting, this is an existing rule. The proposed changes remove reference to SWAPCA 460 and make reference to chapter 173-460 WAC, add two additional source categories for those type of sources which are required to submit an emission inventory which clarifies the types of sources identified in existing requirements, and to move the source testing section to a separate new section (SWAPCA 400-106) in the rules.

SWAPCA 400-106 Emission Testing at Sources, this is a new rule. This rule was excerpted from SWAPCA 400-105(4). This section is revised to include those conditions that are already being included in permits for source testing of certain equipment. This section will provide more consistency in testing and reporting of test results.

SWAPCA 400-109 Notice of Construction Application, this is an existing rule. The proposed modification to this section is to add the word final in subsection 5 to clarify when a Notice of Construction can be withdrawn.

SWAPCA 400-111 Requirements for Sources in a Maintenance Plan Area, this is an existing rule. Modifications to this rule are clarifications to provide reference to the proper section numbers and clarify the requirement to certify that the source is in compliance. The reference to existing federal rules is being updated to reference the most current standard.

SWAPCA 400-112 Requirements for Sources in Nonattainment Areas, this is an existing rule. Modifications to this section are for clarification to reference chapter 173-460 WAC instead of SWAPCA 460 and to update [and] reference the existing federal rules.

SWAPCA 400-113 Requirements for Sources in Attainment or Nonclassifiable Areas, this is an existing rule. Modifications to this section are clarification to reference chapter 173-460 WAC instead of SWAPCA 460 and to reference the existing federal rules.

SWAPCA 400-115 Standards of Performance for New Sources, this is an existing rule. Modifications to this section include updating the adoption dates on the existing federal rules and adopting additional existing federal standards.

Proposal Changes the Following Existing Rules: See above.

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No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes proposed by the Southwest Air Pollution Control Authority are consistent with federal or state rules already in effect. This agency is not subject to the small business economic impact provision of chapter 19.85 RCW. A fiscal analysis has been performed to establish the basis for any proposed fee increases. Copies of this analysis are available at the Southwest Air Pollution Control Authority.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Southwest Air Pollution Control Authority is not voluntarily invoking section 201, chapter 403, Laws of 1995.

Hearing Location: Office of the Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA 98685, on October 1, 1998, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Mary Allen by September 29, 1998, TDD (360) 574-3058.

Submit Written Comments to: Paul T. Mairose, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA 98685, fax (360) 576-0925, by September 22, 1998.

Date of Intended Adoption: October 1, 1998.

July 22, 1998

Robert D. Elliott
Executive Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 98-16 issue of the Register.

WSR 98-15-144
PROPOSED RULES
SOUTHWEST AIR POLLUTION
CONTROL AUTHORITY

[Filed July 22, 1998, 9:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-12-010.

Title of Rule: SWAPCA 400 - General Regulations for Air Pollution Sources.

SWAPCA 400-130 Use of Emission Reduction Credits, the purpose of this section is to identify the requirements and procedures for use of emission reduction credits.

SWAPCA 400-131 Deposit of Emission Reduction Credits into Bank, the purpose of this section is to identify the requirements and procedures for depositing emission reduction credits into the credit bank maintained by SWAPCA.

SWAPCA 400-136 Maintenance of the Bank, the purpose of this section is to identify the requirements for SWAPCA to maintain the emission reduction credit bank, how the credits are to be issued and describe how to manage credits that are expired beyond the five year time limit.

SWAPCA 400-141 Prevention of Significant Deterioration (PSD), the purpose of this section is to identify the requirements for those sources subject to federal PSD permitting requirements and provides reference to the appropriate federal regulations.

SWAPCA 400-171 Public Involvement, the purpose of this section is to identify the requirements for public notice of SWAPCA permitting actions and the process by which public involvement is to be administered. This section also identifies those documents which are required to be subject to a public notice and those that are not required to be subject to public notice.

SWAPCA 400-180 Variance, the purpose of this section is to identify the requirements and procedures for obtaining a variance from the SWAPCA board of directors for an existing permit or the established regulations.

SWAPCA 400-230 Regulatory Actions and Civil Penalties, the purpose of this section is to identify the different types of common regulatory orders issued by SWAPCA and identify the enforcement and civil penalty authorities of SWAPCA.

SWAPCA 400-250 Appeals, the purpose of this section is to identify the requirements and procedures for appeals to any SWAPCA decision or regulatory order issued by the agency.

SWAPCA 400-280 Powers of Authority, the purpose of this section is to identify the powers vested in SWAPCA under RCW 70.94.141 and 43.21B.240.

APPENDIX A SWAPCA Method 9 - Visual Opacity Determination Method, the purpose of this section is to describe the procedure for performing visual opacity readings as part of compliance and enforcement activities by agency staff. This procedure is also to be used by sources in SWAPCA jurisdiction for self determination of compliance with regulatory standards and permit conditions.

Purpose: See above.

Statutory Authority for Adoption: RCW 70.94.141.

Statute Being Implemented: RCW 70.94.141.

Summary: SWAPCA 400-130 Use of Emission Reduction Credits, this section identifies the requirements and procedures for use of emission reduction credits once they have been deposited in the emission reduction credit bank maintained by SWAPCA.

SWAPCA 400-131 Deposit of Emission Reduction Credits into Bank, this section describes the requirements and procedures for depositing emission reduction credits into the credit bank maintained by SWAPCA.

SWAPCA 400-136 Maintenance of the Bank, this section identifies the requirements for SWAPCA to maintain the emission reduction credit bank, how the credits are to be issued and describe how to manage credits that are expired beyond the five year time limit.

SWAPCA 400-141 Prevention of Significant Deterioration (PSD), this section describes the requirements for those sources which would be subject to the federal PSD permitting requirements and provides reference to the appropriate federal regulations.

SWAPCA 400-171 Public Involvement, this section describes the requirements for public notice of SWAPCA permitting actions and the process by which public involvement is to be administered. This section also identifies those documents which are required to be subject to a public notice process and those that are not required to be subject to public notice.

SWAPCA 400-180 Variance, this section describes the requirements and procedures for obtaining a variance from the SWAPCA board of directors for an existing permit or the established regulations.

SWAPCA 400-230 Regulatory Actions and Civil Penalties, this section identifies the different types of common regulatory orders issued by SWAPCA and identifies the enforcement and civil penalty authorities of SWAPCA.

SWAPCA 400-250 Appeals, this section identifies the requirements and procedures for appeals to any SWAPCA decision or regulatory order issued by the agency.

SWAPCA 400-280 Powers of Authority, this section identifies the powers and authority vested in SWAPCA under RCW 70.94.141 and 43.21B.240.

APPENDIX A SWAPCA Method 9 - Visual Opacity Determination Method, this section describes the procedure for performing visual opacity readings as part of compliance and enforcement activities by agency staff. This procedure is also to be used by sources in SWAPCA jurisdiction for self determination of compliance with regulatory standards and permit conditions.

Reasons Supporting Proposal: See above.

Name of Agency Personnel Responsible for Drafting and Implementation: Paul Mairose, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA, (360) 374-3058 [574-3058]; and Enforcement: Robert D. Elliott, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA, (360) 574-3058.

Name of Proponent: Southwest Air Pollution Control Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: SWAPCA 400-130 Use of Emission Reduction Credits, this is an existing rule. Proposed modifications are to reorganize this section for clarity and to make changes in the program to conform to federal guidelines on emission reduction credit banking so credits deposited by sources can be used to satisfy federal program requirements. This section is being changed to describe only the process of using ERCs. The existing discussion on acquisition is being moved to SWAPCA 400-131. The most significant change in this process is to change the time for use of an ERC from ten years to five years as required by the federal program guidelines.

SWAPCA 400-131 Deposit of Emission Reduction Credits into Bank, this is an existing rule. Proposed modifications are to restructure the section for clarity and describe only the actions involved in depositing emission reduction credits into the credit bank. The section has been rewritten for clarity.

SWAPCA 400-136 Maintenance of the Bank, this is an existing rule. Proposed modifications are to rewrite the section to only address the activities surrounding how SWAPCA maintains credits in the bank, how they are to be assigned, procedures for public involvement, annual review of the bank and expiration of credits older than five years.

SWAPCA 400-141 Prevention of Significant Deterioration (PSD), this is an existing rule. The proposed modification is to update the adoption date of the federal rules from

1993 to 1998 by incorporation by reference. No substantial changes in this program are proposed.

SWAPCA 400-171 Public Involvement, this is an existing rule. Proposed changes are clarifications to change the reference from SWAPCA 401 to chapter 173-401 WAC because SWAPCA adopts chapter 173-401 WAC by reference and has no separate rule. There are no substantive changes proposed in this section.

SWAPCA 400-180 Variance, this is an existing rule. Proposed changes are for clarification. The reference to "this chapter" is being changed to "SWAPCA regulations" for clarity. No substantial changes are proposed.

SWAPCA 400-230 Regulatory Actions and Civil Penalties, this is an existing rule. Proposed changes are to change the date at which a source is considered to be in default of payment of registration fees. The date is being changed from July 31 of each year to June 30 to better align this activity with the required fiscal year of SWAPCA.

SWAPCA 400-250 Appeals, this is an existing rule. Proposed changes are to change the reference to RCW 43.21B.120 to accurately reflect the proper citation of RCW 43.21B.230. No substantial changes in this section are proposed.

SWAPCA 400-280 Powers of Authority, this is an existing rule. Proposed changes are to add another subsection which identifies the requirement that SWAPCA may not hold adjudicative proceedings as provided in RCW 43.21B.240.

APPENDIX A SWAPCA Method 9 - Visual Opacity Determination Method, this is a new section. This section is proposed to describe the procedure for performing visual opacity readings as part of compliance and enforcement activities by agency staff. This procedure is also to be used by sources in SWAPCA jurisdiction for self determination of compliance with regulatory standards and permit conditions. SWAPCA previously relied on the ecology method for visual determinations, however, the ecology method makes recommendations for the reader to take pictures and record humidity which is not necessary to take an accurate visual reading. This rule making will document the method used by SWAPCA in current visual readings.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes proposed by the Southwest Air Pollution Control Authority are consistent with federal or state rules already in effect. This agency is not subject to the small business economic impact provision of chapter 19.85 RCW. A fiscal analysis has been performed to establish the basis for any proposed fee increases. Copies of this analysis are available at the Southwest Air Pollution Control Authority.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Southwest Air Pollution Control Authority is not voluntarily invoking section 201, chapter 403, Laws of 1995.

Hearing Location: Office of the Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA 98685, on October 1, 1998, at 3:00 p.m.

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Assistance for Persons with Disabilities: Contact Mary Allen by September 29, 1998, TDD (360) 574-3058.

Submit Written Comments to: Paul T. Mairose, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA 98685, fax (360) 576-0925, by September 22, 1998.

Date of Intended Adoption: October 1, 1998.

July 22, 1998

Robert D. Elliott
Executive Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 98-16 issue of the Register.

WSR 98-15-150
PROPOSED RULES
BUILDING CODE COUNCIL

[Filed July 22, 1998, 10:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-13-052.

Title of Rule: Amendment to chapter 51-04 WAC, Policies and procedures for consideration of state-wide and local amendments to the State Building Code.

Purpose: To update definitions and references in chapter 51-04 WAC.

Statutory Authority for Adoption: RCW 19.27.035, 19.27.074.

Statute Being Implemented: RCW 19.27.074.

Summary: The proposed rule will update definitions and references in chapter 51-04 WAC.

Reasons Supporting Proposal: Definitions and references require updating to be consistent with the current editions of the uniform codes. Reference to the State Energy Office, which has been closed, is no longer needed.

Name of Agency Personnel Responsible for Drafting and Implementation: Tim Nogler, P.O. Box 48300, Olympia, WA 98504, (360) 586-0486; and Enforcement: Local jurisdictions.

Name of Proponent: State Building Code Council, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule will change the language of WAC 51-04-015, 51-04-030, and 51-04-060 by updating definitions and references, and eliminating reference to the Washington State Energy Office.

These definitions and references require updating to provide accurate language in chapter 51-04 WAC, and to be consistent with the current editions of the uniform codes.

Proposal Changes the Following Existing Rules: See below.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no small business economic impact.

RCW 34.05.328 does not apply to this rule adoption. The State Building Code Council is not identified by RCW 34.05.328 as an agency required to comply.

Hearing Location: Spokane City Council Chambers, West 808 Spokane Falls Boulevard, Spokane, WA, on September 18, 1998, at 10 a.m.

Assistance for Persons with Disabilities: Contact Krista Braaksma by September 1, 1998, TDD (360) 753-2200.

Submit Written Comments to: Mike McEnaney, Chair, State Building Code Council, P.O. Box 48300, Olympia, WA 98504, fax (360) 586-5880, by September 16, 1998.

Date of Intended Adoption: November 13, 1998.

July 10, 1998

Mike McEnaney
Council Chair

AMENDATORY SECTION (Amending WSR 98-02-048, filed 1/5/98, effective 7/1/98)

WAC 51-04-015 Definitions. (1) "Supplements and accumulative supplements" mean the publications between editions of the uniform codes and standards which include changes to the current edition of the uniform codes and standards.

(2) "Council" means the Washington state building code council.

(3) "Emergency state-wide amendment" means any proposed state-wide amendment, the adoption of which is necessary immediately in order to protect life, safety or health of building occupants; preserve the structural integrity of buildings built to the state building code; to correct errors and omissions; or by the direction of the Washington state legislature or federal legislation. Emergency state-wide amendments to the state building code must be adopted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

(4) "Local government amendment" means any amendment to the state building code, as adopted by cities or counties for implementation and enforcement in their respective jurisdictions.

(5) "Local government residential amendment" means any amendment to the state building code, as adopted by cities or counties for implementation and enforcement in their respective jurisdictions, that applies to single and multifamily buildings as defined by RCW 19.27.015.

(6) "State building code" means the Uniform Building Code and Standards; the Uniform Mechanical Code (~~including Fuel Gas Piping~~); the Uniform Fire Code and Standards; the Uniform Plumbing Code and Standards; the state regulations for barrier-free facilities, as designated in RCW 19.27.031; the state energy code; and any other codes so designated by the Washington state legislature as adopted and amended by the council.

(7) "State-wide amendment" means any amendment to the building code, initiated through council action or by petition to the council from any agency, city or county, or interested individual or organization, that would have the effect of amending the building code for the entire state of Washington. State-wide amendments to the state building code must

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be adopted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

(8) "State building code update cycle" means that period during which the uniform code and standards referenced in chapter 19.27 RCW are updated and amended by the council in accordance with the Administrative Procedure Act, chapter 34.05 RCW hereinafter referred to as the "adoption period" and those additional periods when code changes are received for review as proposed amendments to the uniform codes, hereinafter referred to as "submission periods."

(9) "Uniform codes" means the Uniform Building, Mechanical, Plumbing, and Fire Codes as published by the International Conference of Building Officials, International Association of Plumbing and Mechanical Officials, and Western Fire Chiefs respectively.

AMENDATORY SECTION (Amending WSR 95-01-127, filed 12/21/94, effective 6/30/95)

WAC 51-04-030 Policies for consideration of proposed local government residential amendments. All amendments to the building code, as adopted by cities and counties for implementation and enforcement in their respective jurisdictions, that apply to single and multifamily buildings as defined by RCW 19.27.015, shall be submitted to the council for approval.

The council shall consider and approve or deny all proposed local government residential amendments to the building code within ninety days of receipt of a proposal, unless alternative scheduling is agreed to by the council and the proposing entity.

All local government residential amendments to the building code that require council approval shall be submitted in writing to the council, after the city or county legislative body has adopted the amendment and prior to implementation and enforcement of the amendment by the local jurisdiction.

It is the policy of the council to encourage joint proposals for local government residential amendments from more than one jurisdiction. Local government residential amendments submitted to the council for approval should be based on:

- (1) Climatic conditions that are unique to the jurisdiction.
- (2) Geologic or seismic conditions that are unique to the jurisdiction.
- (3) Environmental impacts such as noise, dust, etc., that are unique to the jurisdiction.
- (4) Life, health, or safety conditions that are unique to the local jurisdiction.
- (5) Other special conditions that are unique to the jurisdiction.

EXCEPTIONS: Appendices or portions thereof that have the effect of amending the uniform codes, that do not conflict with the building code for single and multifamily residential buildings as defined by RCW 19.27.015, may be adopted by local jurisdictions without council review or approval.

Local government residential amendments to:

- (1) Chapter 1, 17, or 34 of the Uniform Building Code;

- (2) Chapter 1 of the Uniform Mechanical Code;
- (3) Article 1(~~(, 2, 3 or 4)~~) of the Uniform Fire Code;
- (4) (~~Part~~) Chapter 1 of the Uniform Plumbing Code;
- (5) Chapter 1 or 11 of the State Energy Code; or
- (6) Chapter 1 of the Ventilation and Indoor Air Quality Code need not be submitted to the Council for review and approval provided that such amendments do not diminish the construction requirements of those chapters.

Those portions of the supplement or accumulative supplements that affect single and multifamily residential buildings as defined by RCW 19.27.015 that are not adopted by the council shall be submitted to the council for consideration as local government residential amendments to the building code.

Local government residential amendments shall conform to the limitations provided in RCW 19.27.040.

AMENDATORY SECTION (Amending WSR 94-05-058, filed 2/10/94, effective 3/13/94)

WAC 51-04-060 Opinions. RCW 19.27.031 grants the council authority to render opinions relating to the building code at the request of a local building official.

For the purposes of this section, the term "building official" means the local or state official, or their designee, responsible for implementation and enforcement of the specific code provision on which the opinion is requested.

Council building code related opinions shall be limited to the state regulations for barrier-free facilities, the state energy code, the state ventilation and indoor air quality code, and council amendments to the uniform codes.

Council related opinions may be developed and approved by a standing committee of the council.

Opinions approved by a standing committee may be reviewed and modified by the council.

~~((Energy code related opinions shall be developed in consultation with the Washington state energy office.))~~

WSR 98-15-151
PROPOSED RULES
BUILDING CODE COUNCIL
 [Filed July 22, 1998, 10:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-13-051.

Title of Rule: Amending the "007 Exceptions" sections of chapter 51-40 WAC, Building Code, chapter 51-42 WAC, Mechanical Code, chapter 51-44 WAC, Fire Code, and chapter 51-46 WAC Plumbing Code, and Section "101.3 Scope" of chapter 51-11 WAC, Energy Code, by adding an exemption for temporary worker housing.

Purpose: To exempt temporary worker housing from codes listed in RCW 19.27.031 and chapter 19.27A RCW, and refer to Department of Health rules regulating temporary worker housing.

Statutory Authority for Adoption: RCW 19.27.031, 19.27.074.

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Statute Being Implemented: Chapters 19.27 and 34.05 RCW.

Summary: The proposed amendments will exempt temporary worker housing from being subject to the codes listed in RCW 19.27.031 and chapter 19.27A RCW, as directed by chapter 37, Laws of 1998 (2SSB 6168).

Reasons Supporting Proposal: Chapter 37, Laws of 1998 (2SSB 6168).

Name of Agency Personnel Responsible for Drafting and Implementation: Tim Nogler, P.O. Box 48300, Olympia, WA 98504-8300, 586-0486; and Enforcement: Local jurisdiction.

Name of Proponent: Washington State Building Code Council, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The council seeks comments on the issues and options proposed in the rules shown below.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amendments will exempt temporary worker housing from being subject to the codes listed in RCW 19.27.031 and chapter 19.27A RCW, as directed by chapter 37, Laws of 1998 (2SSB 6168) and refer to Department of Health rule.

Purpose: To exempt temporary worker housing from the Uniform Building Code, Uniform Mechanical Code, Uniform Plumbing Code, Washington State Energy Code.

Anticipated Effect: A Department of Health program will regulate safe, healthy and affordable housing for temporary workers. This will streamline the regulatory process by making Department of Health the agency in charge of temporary worker housing.

The "Exceptions" section of WAC 51-40-007 (Uniform Building Code), 51-42-007 (Uniform Mechanical Code), 51-44-007 (Uniform Fire Code), and 51-46-007 (Uniform Plumbing Code); also the "Scope" section, Section 101.3, of chapter 51-11 WAC, Energy Code.

Proposal Changes the Following Existing Rules: This amendment exempts temporary worker housing from the Building, Fire, Energy, Plumbing and Mechanical codes. This change will effectively streamline the regulatory processes for temporary worker housing. A Department of Health program will have regulatory authority over temporary worker housing thereby removing that responsibility away from the local building officials/jurisdictions.

No small business economic impact statement has been prepared under chapter 19.85 RCW. 1. Washington State Building Code Council was directed by chapter 37, Laws of 1998 (2SSB 6168).

2. Based on RCW 19.85.030 (3)(a) Washington State Building Code Council is eliminating substantive regulatory requirements on temporary worker housing.

RCW 34.05.328 does not apply to this rule adoption. The Washington State Building Code Council is not listed in this section as one of the agencies required to comply with this regulation.

Hearing Location: Spokane City Council Chambers, West 808 Spokane Falls Boulevard, Spokane, WA 99201, on September 18, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Krista Braaksma, (360) 753-5927, by September 1, 1998, TDD (360) 753-2200.

Submit Written Comments to: Mike McEnaney, Chair, fax (360) 586-5880, by September 16, 1998.

Date of Intended Adoption: November 13, 1998.

July 10, 1998

Mike McEnaney

Council Chair

AMENDATORY SECTION (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

WAC 51-11-0101 Section 101. Scope and general requirements.

101.1 Title: Chapters 1 through 10 of this Code shall be known as the "Washington State Residential Energy Code" and may be cited as such; and will be referred to herein as "this Code."

101.2 Purpose and Intent: The purpose of this Code is to provide minimum standards for new or altered buildings and structures or portions thereof to achieve efficient use and conservation of energy.

The purpose of this Code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this Code.

It is intended that these provisions provide flexibility to permit the use of innovative approaches and techniques to achieve efficient use and conservation of energy. These provisions are structured to permit compliance with the intent of this Code by any one of the following three paths of design:

1. A systems analysis approach for the entire building and its energy-using sub-systems which may utilize renewable energy sources, Chapter 4.
2. A component performance approach for various building elements and mechanical systems and components, Chapter 5.
3. A prescriptive requirements approach, Chapter 6.

Compliance with any one of these approaches meets the intent of this Code. This Code is not intended to abridge any safety or health requirements required under any other applicable codes or ordinances.

The provisions of this Code do not consider the efficiency of various energy forms as they are delivered to the building envelope. A determination of delivered energy efficiencies in conjunction with this Code will provide the most efficient use of available energy in new building construction.

101.3 Scope: This Code sets forth minimum requirements for the design of new buildings and structures that provide facilities or shelter for residential occupancies by regulating their exterior envelopes and the selection of their

HVAC, service water heating systems and equipment for efficient use and conservation of energy.

Buildings shall be designed to comply with the requirements of either Chapter 4, 5, or 6 of this Code.

101.3.1 Exempt Buildings: Buildings and structures or portions thereof meeting any of the following criteria shall be exempt from the building envelope requirements of sections 502 and 602, but shall comply with all other requirements for building mechanical systems, and service water heating.

101.3.1.1: Buildings and structures or portions thereof whose peak design rate of energy usage is less than three and four tenths (3.4) Btu/h per square foot or one point zero (1.0) watt per square foot of floor area for space conditioning requirements.

101.3.1.2: Buildings and structures or portions thereof which are neither heated according to the definition of heated space in Chapter 2, nor cooled by a nonrenewable energy source, provided that the nonrenewable energy use for space conditioning complies with requirements of section 101.3.1.1.

101.3.1.3: Greenhouses isolated from any conditioned space and not intended for occupancy.

101.3.1.4: The provisions of this code do not apply to the construction, alteration, or repair of temporary worker housing except as provided by rule adopted under chapter 70.114A RCW or chapter 37, Laws of 1998 (SB 6168). "Temporary worker housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an employer for his or her employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy, and includes "labor camps" under RCW 70.54.110.

101.3.2 Application to Existing Buildings: Additions, historic buildings, changes of occupancy or use, and alterations or repairs shall comply with the requirements in the subsections below.

EXCEPTION: The building official may approve designs of alterations or repairs which do not fully conform with all of the requirements of this Code where in the opinion of the building official full compliance is physically impossible and/or economically impractical and:

1. The alteration or repair improves the energy efficiency of the building; or
2. The alteration or repair is energy efficient and is necessary for the health, safety, and welfare of the general public.

In no case, shall building envelope requirements or mechanical system requirements be less than those requirements in effect at the time of the initial construction of the building.

101.3.2.1 Additions to Existing Buildings: Additions to existing buildings or structures may be made to such buildings or structures without making the entire building or structure comply, provided that the new additions shall conform to the provisions of this Code.

EXCEPTION: New additions which do not fully comply with the requirements of this Code and which have a floor area

which is less than seven hundred fifty square feet shall be approved provided that improvements are made to the existing occupancy to compensate for any deficiencies in the new addition. Compliance shall be demonstrated by either systems analysis or component performance calculations. The nonconforming addition and upgraded, existing occupancy shall have an energy budget or heat loss which is less than or equal to the unimproved existing building, with the addition designed to comply with this Code.

101.3.2.2 Historic Buildings: The building official may modify the specific requirements of this Code for historic buildings and require in lieu thereof alternate requirements which will result in a reasonable degree of energy efficiency. This modification may be allowed for those buildings which have been specifically designated as historically significant by the state or local governing body, or listed in The National Register of Historic Places or which have been determined to be eligible for listing.

101.3.2.3 Change of Occupancy or Use:

Any Other than Group R Occupancy which is converted to Group R Occupancy shall be brought into full compliance with this Code.

101.3.2.4 Alterations and Repairs: All alterations and repairs to buildings or portions thereof originally constructed subject to the requirements of this Code shall conform to the provisions of this Code without exception. For all other existing buildings, initial tenant alterations shall comply with the new construction requirements of this Code. Other alterations and repairs may be made to existing buildings and moved buildings without making the entire building comply with all of the requirements of this Code for new buildings, provided the following requirements are met:

101.3.2.5 Building Envelope: The result of the alterations or repairs both:

1. Improves the energy efficiency of the building, and
2. Complies with the overall average thermal transmittance values of the elements of the exterior building envelope in Table 5-1 of Chapter 5 or the nominal R-values and glazing requirements of the reference case in Tables 6-1 to 6-6.

EXCEPTIONS:

1. Untested storm windows may be installed over existing glazing for an assumed U-factor of 0.90, however, where glass and sash are being replaced in Group R Occupancy, glazing shall comply with the appropriate reference case in Table 6-1 through Table 6-6.

2. Where the structural elements of the altered portions of roof/ceiling, wall or floor are not being replaced, these elements shall be deemed to comply with this Code if all existing framing cavities which are exposed during construction are filled to the full depth with batt insulation or insulation having an equivalent nominal R-value while, for roof/ceilings, maintaining the required space for ventilation. Existing walls and floors without framing cavities need not be insulated. Existing roofs shall be insulated to the requirements of this Code if

a. The roof is uninsulated or insulation is removed to the level of the sheathing, or

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b. All insulation in the roof/ceiling was previously installed exterior to the sheathing or nonexistent.

101.3.2.6 Building Mechanical Systems: Those parts of systems which are altered or replaced shall comply with section 503 of this Code.

101.3.2.7 Service Water Heating: Those parts of systems which are altered or replaced shall comply with section 504.

101.3.2.8 Reserved.

101.3.3 Mixed Occupancy: When a building houses more than one occupancy, each portion of the building shall conform to the requirements for the occupancy housed therein. Where approved by the building official, where minor accessory uses do not occupy more than ten percent of the area of any floor of a building, the major use may be considered the building occupancy.

101.4 Amendments by Local Government: Except as provided in RCW 19.27A.020(7), this Code shall be the maximum and minimum energy code for Group R Occupancy in each town, city and county, no later than July 1, 1991.

AMENDATORY SECTION (Amending WSR 98-02-054, filed 1/6/98, effective 7/1/98)

WAC 51-40-007 Exceptions. The exceptions and amendments to the Uniform Building Code contained in the provisions of chapter 19.27 RCW shall apply in case of conflict with any of the provisions of these rules.

Table 10-D, Section 1607.6 and Section 3003 (with the exception of 3003.3 Standby Power and 3003.5 Stretcher Requirements) of the 1997 Uniform Building Code are not adopted.

The provisions of this code do not apply to temporary growing structures used solely for the commercial production of horticultural plants including ornamental plants, flowers, vegetables, and fruits. "Temporary growing structure" means a structure that has the sides and roof covered with polyethylene, polyvinyl, or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention. A temporary growing structure is not considered a building for purposes of this code.

The provisions of this code do not apply to the construction, alteration, or repair of temporary worker housing except as provided by rule adopted under chapter 70.114A RCW or chapter 37, Laws of 1998 (SB 6168). "Temporary worker housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an employer for his or her employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy, and includes "labor camps" under RCW 70.54.110.

AMENDATORY SECTION (Amending WSR 98-02-056, filed 1/6/98, effective 7/1/98)

WAC 51-42-007 Exceptions. The exceptions and amendments to the Uniform Mechanical Code contained in

the provisions of chapter 19.27 RCW shall apply in case of conflict with any of the provisions of these rules.

The provisions of this code do not apply to temporary growing structures used solely for the commercial production of horticultural plants including ornamental plants, flowers, vegetables, and fruits. "Temporary growing structure" means a structure that has the sides and roof covered with polyethylene, polyvinyl, or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention. A temporary growing structure is not considered a building for purposes of this code.

The provisions of this code do not apply to the construction, alteration, or repair of temporary worker housing except as provided by rule adopted under chapter 70.114A RCW or chapter 37, Laws of 1998 (SB 6168). "Temporary worker housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an employer for his or her employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy, and includes "labor camps" under RCW 70.54.110.

AMENDATORY SECTION (Amending WSR 98-02-053, filed 1/6/98, effective 7/1/98)

WAC 51-44-007 Exceptions. The exceptions and amendments to the Uniform Fire Code contained in the provisions of chapter 19.27 RCW shall apply in case of conflict with any of the provisions of these rules.

The provisions of this code do not apply to temporary growing structures used solely for the commercial production of horticultural plants including ornamental plants, flowers, vegetables, and fruits. "Temporary growing structure" means a structure that has the sides and roof covered with polyethylene, polyvinyl, or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention. A temporary growing structure is not considered a building for purposes of this code.

The provisions of this code do not apply to the construction, alteration, or repair of temporary worker housing except as provided by rule adopted under chapter 70.114A RCW or chapter 37, Laws of 1998 (SB 6168). "Temporary worker housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an employer for his or her employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy, and includes "labor camps" under RCW 70.54.110.

AMENDATORY SECTION (Amending WSR 98-02-055, filed 1/6/98, effective 7/1/98)

WAC 51-46-007 Exceptions. The exceptions and amendments to the uniform codes contained in the provisions of chapter 19.27 RCW shall apply in cases of conflict with any of the provisions of these rules.

The provisions of this code do not apply to the construction, alteration, or repair of temporary worker housing except as provided by rule adopted under chapter 70.114A RCW or chapter 37, Laws of 1998 (SB 6168). "Temporary worker

housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an employer for his or her employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy, and includes "labor camps" under RCW 70.54.110.

WSR 98-15-154
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed July 22, 1998, 11:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-06-077.

Title of Rule: Physician visa waivers, chapter 246-562 WAC.

Purpose: Provide increased access to physician services in areas with high population-to-physician ratios.

Statutory Authority for Adoption: RCW 70.185.040.

Statute Being Implemented: Chapter 70.185 RCW.

Summary: Proposed rule specifies how the department may act on requests from Washington applicants to sponsor a physician visa waiver, allowing a foreign-trained physician to serve in a federally designated shortage area.

Reasons Supporting Proposal: Rules will make it easier for applicants to determine if the department can act as sponsor, will guide applicants in making the request, and will allow the department to target the program to high need areas. Department actions will be legally defensible.

Name of Agency Personnel Responsible for Drafting: Callie Wilson, Kelly Shaw, Verne Gibbs, 2725 West Harrison Avenue, Suite 500, (360) 705-6770; Implementation: Kelly Shaw, Verne Gibbs, 2725 West Harrison Avenue, Suite 500, (360) 705-6770; and Enforcement: N/A - optional program, initiated by constituent request.

Name of Proponent: [Department of Health], governmental.

Rule is necessary because of federal law, 8 USC Sec. 1184(1) and 22 CFR 514.44(e). Rule is designed to carry out option allowed in federal law.

Explanation of Rule, its Purpose, and Anticipated Effects: Despite an adequate number of physicians in the state of Washington to meet the needs of Washington residents as a whole, the existing physician supply is not distributed across the state to meet physician access needs. Adequate access to public health services, emergency services, and basic medical care depends on a suitable distribution of medical care providers, including physicians.

The purpose of this rule is to describe how the department will exercise an option allowed under federal law. The option is to sponsor physician visa waivers, requested by Washington state employers, for foreign-trained physicians. The physicians and employers must commit to full-time employment for three years in a federally-designated shortage area.

The anticipated effect is to increase the pool of physician candidates available to Washington state employers attempting to fill long-standing vacancies in areas documented to be

chronically short of physicians. In turn, the residents of those areas will receive increased access to physician services.

Proposal does not change existing rules.

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

Small Business Economic Impact Statement

and

Economic Impact Analysis

This report contains two analyses: An economic impact analysis (EIA) and a small business economic impact statement (SBEIS).

The EIA determined the cost to comply with the proposed rule is \$500 to \$750. The businesses that are using this option are hospitals, medical clinics and medical practices. They will be incurring this cost in addition to about \$150,000 of first year costs associated with employing a physician. The nonrecurring cost per dollar of sales for a small business, and for a large business, is in the range of \$.003 to \$.004 for the first year.

The EIA also assessed the Department of Health's (DOH's) program administration costs. There is no fee envisioned at this time, but the analysis describes the public benefit purchased by the costs incurred by DOH to administer the program described in chapter 246-562 WAC.

The SBEIS describes how the costs are not imposed in a disproportionate manner on small businesses. While costs are alike for large and small businesses, they are mitigated by the voluntary nature of the program and the overall attempt to keep regulation at a minimum. Both large and small businesses benefit.

Background: The Department of Health provides recruitment assistance as authorized in RCW 70.185.020. In October 1994 there were changes to a federal law, Public Law 103-416, that allowed state health departments to act as physician sponsors under certain conditions. The state is limited to twenty sponsorships in each federal fiscal year.

Federal law was amended in 1996 to bring various federal programs into alignment, and to extend the authority for state sponsorship to the year 2002. Federal regulations were adopted in 1997 that applied to some, but not all physicians who would ultimately practice in Washington state.

Chapter 246-562 WAC is designed to give guidance to Washington state employers who request DOH to exercise its authority to act as a sponsor. It is also intended to target those sponsorships, as intended by the federal program, to those areas in highest need of primary care physician services.

At this time, a physician visa waiver is scrutinized by the United States Information Agency (part of the state department), the Immigration and Naturalization Service, the Department of Labor (for wage and working condition issues) and, sometimes, if acting as a rural area sponsor, by the Department of Agriculture (USDA).

Complying with chapter 246-562 WAC will help the applicant meet the federal requirements. These ultimately must be met for successful physician recruitment.

Past Sponsorships: In 1995, the Department of Health (DOH), sponsored eight physicians. All continue to serve in

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shortage areas of the state. In 1996, DOH participated in six sponsorships, and all of these physicians are currently serving, also. Likewise, USDA sponsored successful physician placements.

In 1997, using the same criteria as before, DOH received twenty requests, and sponsored each. Three of the twenty are not serving now, and two were unable to start, a total of five of the twenty. Washington residents will benefit if all twenty sponsorships are for viable practice locations. It became clear that in the future, the twenty waiver sponsorships would be a scarce resource.

Reason for Rules: In 1997 DOH made an inventory of policies that might need to be in regulation. The department determined that there would be a public benefit to regulation to assure:

- Applicants using a state slot would be able to meet federal requirements,
- The sponsorships would be targeted to long-standing vacancies, and
- Washington residents will benefit from access to physician services.

In summary, the twenty slots are a limited resource. Failure to target to employers who can effectively meet federal requirements will, in effect, impose a cost on others, of a lost opportunity. No one is required to use the program, it is offered as a service to Washington employers who wish the department to exercise this optional authority.

What does it cost to comply with chapter 246-562 WAC? No one is required to use the program, it is offered as a service to Washington employers who wish the department to exercise this optional authority.

What does it cost a business to comply? The application form, designed to assist the applicant to assemble both state and federal documentation, was reviewed for the burden it imposes for state requirements, beyond the federal requirements. We determined the costs of meeting state application requirements above the obligatory federal requirements to be in the range of \$500 to \$750. The discussion below describes how this was determined.

Assumptions used in determining cost of compliance.

The following assumptions are used:

- Immigration attorney costs: \$3,000 - 5,000
- Minimal difference if state supplies a form, may be cost savings
- Typical and intended applicant will have the required information at hand

The employer/physician combination responding to the application will use an immigration attorney. The costs may be borne by either party or may be split. The costs of the legal assistance needed to secure the employment relationship of a foreign trained physician (including other requirements beyond J-1 waiver) will continue to range from \$3,000 to \$8,000, depending on the complexity of the case and the presence of family members. These costs were established by a survey in 1995. They are still valid.

The brevity of using a check box, as provided in the application provided by DOH, instead of document creation for each item, will result in a cost savings for people who are

paying an hourly rate, and no change for people who have negotiated a flat fee.

Item with most extensive documentation will be rarely imposed or required. State documentation required will be readily at hand for the intended prospective users. It is unlikely that this program will be used for a new start-up location, and this is the one area requesting extra documentation. This cost was imposed to assure that new locations had the capacity to serve, and thus meet the goals of the program.

The department reserves the right to verify information. Only if there is doubt that a business exists, or Medicaid contracts are possible, will additional documentation be assembled. The department will carry most of the cost of verification activity from public sources.

Our recent experience shows that it is possible to create the appearance of a medical service capacity on paper, with no existing facility. It is also possible to assert an intention to serve vulnerable populations, without any capacity to do so. It is not our intention for this ease of application to continue. This would not serve residents of Washington, or the typical applicant. The typical applicant serves low-income and vulnerable populations, has the capacity to do this, and is seeking to fill a long-standing physician vacancy.

Other State Documentation Required: Assembling information may require a private employer (but not public applicants) to formally put a relationship with a public provider in writing. This is assumed to require three hours of executive time. It will not be required of most applicants.

Regardless of using an attorney, if an employer wishes to use the J-1 waiver program for hiring a physician, five days of executive time and two days of clerical time will be required above the effort normally involved in hiring a physician for initial paperwork. This assumes that the organization will need a unique contract developed to meet federal and state requirements, different from the contract the employer would have used.

Ongoing reporting will require one day of clerical effort a year and two hours of executive and one hour physician time a year.

Situations not Anticipated by this Analysis: This analysis does not anticipate the costs that might be incurred by an entity that does not yet serve vulnerable populations. A practice could change the client base in order to be able to use this program, and might incur costs not reflected here.

It is conceivable that one might try to create a practice setting solely for the purpose of hiring a foreign-trained physician. This would require costs that are not captured here. Our intent is to fill existing long-standing vacancies, in practices currently serving vulnerable populations. The WAC will, in the future, limit to the intended employers.

Costs Related to Complying with both Federal and State Requirements:

staff	hourly rate	cost
Initial		
Clerical	\$ 10/hr	\$ 160
Executive	\$ 30/hr	\$ 1,200
Subtotal		\$ 1,360
Ongoing		
Clerical	\$ 10/hr	\$ 80
Executive	\$ 30/hr	\$ 60
Physician	\$ 60/hr	\$ 60
Total		\$ 1,560

Forty-seven percent, or \$733, can be attributed solely to state imposed requirements. This was determined by counting the thirty-eight items in the application form, and determining that twenty were federally imposed, and eighteen were state imposed.

Three requirements to meet Department of Labor requirements are counted as federally imposed.

Thirty-seven percent of the cost, or \$574 is for meeting state requirements for applicants who are asking the state to concur with the Department of Agriculture sponsorship. In these cases, four application items become obligatory federal requirements.

Summary of State Costs: Meeting state application requirements above the obligatory federal requirements can be crudely estimated to be in the range of \$500 to \$750. The greatest documentation burden, as noted above, will be rarely imposed. It will apply to the exceptional situation where the applicant plans a new location and a new physician in the new location.

Costs to the Department of Health: A fee is not planned at this time, as this program was undertaken with a plan to use current resources and is scheduled to sunset in 2002. The costs continue to change, as demand for the program has increased. Technical assistance to applicants has included changing information as the federal rules changed. A fee may be considered in the future, if the program is extended at the federal level.

Adopting WAC may reduce costs to the department. It may help target the program to applicants who can meet the federal requirements. It will communicate more completely the full range of responsibilities the employer assumes by hiring a noncitizen physician.

Annual Cost of Program to the Department of Health: The following costs reflect a currently operated program, using existing equipment and staffing of the health professional recruitment and retention effort located within the Office of Community and Rural Health.

Staff Position	Percent of FTE	Cost, including benefits and routine assumptions re: goods and services (\$2,700 per yr. per person)	
HSA 3	30%	\$810	\$19,998
Administrative support, 5% of each of 3 people	15%	\$405	\$ 4,707
Office Director	2%	\$54	\$ 1,435
Research Investigator 3	5%	\$135	\$ 2,805
Intern	50%	\$1,350	\$15,637
Subtotals		\$5,454	\$47,282.00

Total Staffing Costs: \$52,736

Additional Costs, Unique to Program:

AG time - \$80/hr, 10 hours @ \$800

Fed ex charges - second day air to USIA \$6.00 x 30 pieces \$180

Dedicated phone line for J-1 information - \$660

Total Direct Costs: \$54,376

with Division Indirect Costs: \$58,780

with Agency Indirect Costs: \$65,775

Summary: What do we buy? At this time, it costs about \$1,000 apiece for the physicians who ultimately work in shortage areas, including follow-up for three years. This in turn "buys" infrastructure in vulnerable communities. Each year's sponsorships, assuming ten sponsored through USDA

and twenty through the state program, will provide ninety years of physician services overall in vulnerable areas. This in turn may lead to some of these physicians staying beyond the three year commitment. The J-1 waiver physicians have attracted other, United States citizen physicians. Physicians enjoy having high quality colleagues and sufficient call coverage.

Small Business Economic Impact Statement

Who is affected? The businesses that will be directly affected and their SIC codes are:

801 Offices and Clinics of Doctors of Medicine

803 Offices and Clinics of Doctors of Osteopathy

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806 Hospitals

These are businesses that act as physician employers. The program is limited to federally designated shortage areas, and in these areas the businesses involved have been:

- Private practices,
- Public hospital districts, and
- Nonprofit clinics or hospitals, including community clinics that receive state or federal subsidy to care for indigent and low-income Washington residents.

The cost threshold over which a small business economic impact statement is required for these businesses is \$50.

What size businesses are affected? The smallest business likely to be affected is a private practice, currently with one or two physicians, and five to ten employees. The largest businesses are large clinics, such as Wenatchee Valley clinic with 1,000 employees and Yakima Valley Farmworkers, with 600 employees. Public hospital districts are also among the largest employers possible (see the list of affected counties below) and the eight largest hospitals in the affected counties also range from 600 to 1,000 employees.

The affected counties are:

Asotin	Columbia	Douglas	Ferry
Franklin	Garfield	Grant	Lewis
Mason	Okanogan	Pacific	Pend Oreille
Pierce	Skamania	Yakima	

The following counties have population designations, and the practice **must** serve migrant farmworkers:

Benton	Chelan	Skagit
Snohomish (west)	Walla Walla	Whatcom

Small portions or populations of the following counties have been designated. A practice site may be possible.

Adams	Clark	Clallam (west)	Grays Harbor
Jefferson (west)	Lincoln	Spokane	
Stevens	Cowlitz	Wahkiakum	

Small or Large, the Impact is Similar: The cost of hiring a foreign-trained physician does not vary with facility size. A practice, hospital, or clinic will spend approximately \$150,000 in the first year for salary, benefits, recruiting costs, and associated legal costs. The cost of complying with chapter 246-562 WAC is estimated to be \$500 to \$700. Since this figure is higher than the cost threshold of \$50, the department must prepare a small business economic impact statement.

The regulatory burden is not disproportionate for a small business. The Department of Health expects that small businesses will not bear a disproportionate cost as a result of the changes to chapter 246-562 WAC. A general practice doctor sees an average of 2,000-3,000 patients irrespective of the size of the facility in which he or she works. Thus, whether the physician works in a large or small business, the \$500-\$700 cost of this rule will be spread across the same number of patients.

Steps taken to mitigate. Because this rule does not impose disproportionate costs on small businesses, the

department is not obligated to mitigate the economic burden to small businesses. Nevertheless, the department has made a serious effort to minimize the regulatory burden on all businesses, by adopting the minimum amount of regulation that will reach the desired purpose, and by rigorous and repeat stakeholder involvement in drafting the wording.

A copy of the statement may be obtained by writing to the Department of Health, Office of Community and Rural Health, P.O. Box 47834, Olympia, WA 98504-7834.

RCW 34.05.328 applies to this rule adoption. We determined that this rule might be considered a significant rule as described in RCW 34.05.328 (1)(c)(iii). The Department of Health is voluntarily providing an economic analysis, an economic impact statement, and a small business economic impact statement. No one is required to apply to the program, we are choosing to offer an option provided under federal law. Nevertheless, residents of Washington may substantially benefit from the program, and may be excluded from using the program based on the proposed WAC. Consequently, we are treating this as significant rule.

Hearing Location: Hearings Room, 2725 West Harrison Avenue, Suite 500, Olympia, WA 98502, on August 25, 1998, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Lorraine Edwards by August 12, 1998, TDD (360) 664-0064, or (360) 705-6770.

Submit Written Comments to: Callie Wilson, fax (360) 664-9273, by August 25, 1998.

Date of Intended Adoption: October 1, 1998.

July 21, 1998

Kristine Van Gorkom
Deputy Secretary

Chapter 246-562 WAC

PHYSICIAN VISA WAIVERS

NEW SECTION

WAC 246-562-010 Definitions. The following definitions shall apply in the interpretation and implementation of these rules.

(1) "Applicant" means a health care facility that seeks to employ a physician and is requesting state sponsorship or concurrence of a visa waiver.

(2) "Department" means the department of health.

(3) "Employment contract" means a legally binding agreement between the applicant and the physician named in the visa waiver application which contains all terms and conditions of employment, including, but not limited to, the salary, benefits and any other considerations owing under the agreement.

(4) "Health care facility" means an entity with an active Washington state business license doing business or proposing to do business in the practice location where the physician would be employed, whose stated purposes include the delivery of medical care.

(5) "Physician" means the foreign physician, named in the visa waiver application, who requires a waiver to remain in the United States to practice medicine.

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(6) "Visa waiver" means a federal action that waives the requirement for a foreign physician, in the United States on a J-1 visa, return to his/her home country for a two-year period following medical residency training.

(7) "Vacancy" means a full-time physician practice opportunity that is based on a planned retirement, a loss of an existing physician, or an expansion of physician services in the service area.

NEW SECTION

WAC 246-562-020 Authority to sponsor visa waivers. (1) The department of health may assist communities to recruit and retain physicians, or other health care professionals, as directed in chapter 70.185 RCW, by exercising an option provided in federal law, 8 U.S.C. Sec. 1184(l) and 22 C.F.R. 514.44(e). This option allows the department of health to sponsor a limited number of visa waivers each federal fiscal year if certain conditions are met.

(2) The department may also concur in sponsorship proposed by federal agencies, including the United States Department of Agriculture. The department will apply the same criteria to concurrence requests as it applies to applications for state sponsorship.

(3) The department may carry out a visa waiver program, or, in the event of resource limitations or other considerations, may discontinue the program. Purposes of the program are:

(a) To increase the availability of physician services in existing federally designated shortage areas for health care facilities that have long standing vacancies;

(b) To improve access to physician services for communities and specific under-served populations that are having difficulty finding primary care physician services;

(c) To serve Washington communities who have identified a physician currently holding a J-1 visa as an ideal candidate to meet the community's need for primary health care services.

(4) The department may only sponsor or concur in a visa waiver request when:

(a) The application contains all of the required information and documentation;

(b) The application meets the criteria contained in chapter 246-562 WAC.

(5) The department will limit its activities:

(a) Prior to submission of an application, the department may provide information on preparing a complete application;

(b) For applicants that have benefited from department sponsorship previously, the applicant's history of compliance will be a consideration in future sponsorship decisions;

(c) Because the number of sponsorships the department may provide is limited, and because the number of shortage areas is great, sponsorship will be limited. In any single year, a health care facility will not be granted more than two sponsorships in any one designated shortage area served.

NEW SECTION

WAC 246-562-040 Principles that will be applied to the visa waiver program. (1) The visa waiver program is considered a secondary source for recruiting qualified physicians. It is not a substitute for broad recruiting efforts for graduates from U.S. medical schools.

(2) Sponsorship may be offered to health care facilities that can provide evidence of sustained active recruitment for the vacancy in the practice location with a physician who has specific needed skills.

(3) Sponsorship is intended to support introduction of physicians into practice settings that promote continuation of the practice beyond the initial contract period.

(4) Sponsorship will be for an employment situation where there is community support and a collegial professional environment.

(5) The visa waiver program will be used to assist health care facilities that provide care to all residents of the federally designated under-served area. When a federal designation is for an under-served population, the health care facility must provide care to the under-served population.

(6) Sponsorship is available to health care facilities that can document the provision of needed services, regardless of public or private ownership.

NEW SECTION

WAC 246-562-050 Review criteria. Applicants and physicians must meet the criteria established in 8 U.S.C. 1184(l) and 22 C.F.R. Sec. 514.44(e) which are incorporated by reference. Copies of these provisions may be requested from the department by writing to the Washington State Department of Health, Office of Community and Rural Health, Visa Waiver Program, PO Box 47834, Olympia, WA 98504-7834.

The criteria set out in chapter 246-562 WAC must also be met.

NEW SECTION

WAC 246-562-060 Criteria for applicants. (1) Applicants must be existing health care facilities licensed to do business in Washington state. The applicant must provide medical care for a minimum of twelve months prior to submitting a visa waiver application to the department.

(2) Applicants may be for-profit, nonprofit, or government organizations.

(3) Except for state institutional and correctional facilities designated as federal shortage areas, the applicant must:

(a) Currently serve Medicare clients, Medicaid clients, low-income clients, such as subsidized basic health plan enrollees and uninsured clients; and the population of the federal designation.

(b) Demonstrate that during the twelve months prior to submitting the application, the health care facility was providing a minimum of ten percent of the applicant's total patient visits to Medicaid clients, and/or other low-income clients.

(4) Applicants must have been actively recruiting to fill the practice vacancy from among qualified physicians who

are graduates of United States medical schools. Active recruitment must be for a period of not less than six months prior to submitting a visa waiver application to the department.

(5) Applicants must have a signed employment contract with the physician. The employment contract:

(a) Must meet state and federal requirements;

(b) Must not prevent the physician from providing medical services in the designated shortage area after the term of employment.

(6) Applicants must pay the physician at least the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment opportunity or the prevailing wage level for the position in the area of employment, whichever is higher.

(7) If the applicant has previously requested sponsorship of a physician, WAC 246-562-130 will apply.

(8) If the applicant is not a publicly funded provider, additional criteria apply. Publicly funded providers include, but are not limited to, public hospital districts or community health centers. The applicant must provide a letter from each of the publicly funded providers serving the federally designated shortage area. The letter must:

(a) Describe a mutually supportive relationship;

(b) Confirm that the proposed addition of a physician will benefit the federally designated shortage area;

(c) Explain how the applicant, through call coverage, referral, or other mechanism will contribute to meeting the local needs.

(9) Applicants must notify the department of the physician's start-date of employment and of any changes in the physician's employment status during the initial three years of employment.

(10) Applicants must submit status reports to the department every six months, with required supporting documentation, during the initial three-year term of employment.

(11) Applicants must cooperate in providing the department with clarifying information, verifying information already provided, or in any investigation of the applicant's financial status.

NEW SECTION

WAC 246-562-070 Criteria for the proposed practice location to be served by the physician. (1) The proposed practice location must be located in:

(a) A federally designated primary care health professional shortage area(s); or

(b) A federally designated mental health professional shortage area(s) for psychiatrists; or

(c) A federally designated whole-county medically under-served area(s); or

(d) A combination of federally designated areas.

(2) If the federal designation is based on a specific population, the health care facility must serve the designated population.

(3) If the practice location is in both a population designation area and a medically under-served area, the designated population must be served.

(4) May be an existing practice location or a new practice location for the health care facility named in the visa waiver application. If a new practice location is planned, additional criteria apply. New practice locations must:

(a) Have the legal, financial, and organizational structure necessary to provide a stable practice environment, and must provide a business plan that supports this information;

(b) Support a full-time physician practice;

(c) Have written referral plans that describe how patients using the new primary care location will be connected to existing secondary and tertiary care if needed.

NEW SECTION

WAC 246-562-080 Criteria for the physician. (1) The physician must not have a J-1 visa waiver pending for any other employment offer.

(2) Physicians must have the qualifications described in recruitment efforts for a specific vacancy.

(3) The physician must provide direct patient care and be trained only in the following five primary care areas:

(a) Family practice; or

(b) General internal medicine; or

(c) Pediatrics; or

(d) Obstetrics and gynecology; or

(e) Psychiatry.

(4) Physicians must have an active Washington state medical license, unless unusual circumstances delay licensing. If the application for a Washington state medical license has been received by the Washington state medical quality assurance commission four or more weeks prior to submission of the visa waiver application, the applicant may substitute a copy of the license application and request an exception.

(5) Physicians must have at least one recommendation from their residency program that:

(a) Addresses the physician's interpersonal and professional ability to effectively care for diverse and low-income people in the United States; and

(b) Describes an ability to work well with supervisory and subordinate medical staff, and adapt to the culture of United States health care facilities.

(6) The physician must comply with all provisions of the employment contract.

NEW SECTION

WAC 246-562-090 Application form. (1) Physician visa waiver program application forms are available and may be requested from: Washington State Department of Health, Office of Community and Rural Health, Visa Waiver Program, PO Box 47834, Olympia, WA 98504-7834.

(2) Applications must be completed in their entirety, addressing all state and federal requirements, and must include all required documents as specified in the application form.

NEW SECTION

WAC 246-562-100 Criteria applied to federally designated facilities. Local, state, or federal institutions that are federally designated with a facility designation may request state sponsorship. Physician services may be limited to the population of the institution. All other state and federal requirements must be met.

NEW SECTION

WAC 246-562-110 Concurrence with United States Department of Agriculture or other federal waiver requests. Concurrence with federal waiver requests will be offered to applicants who:

- (1) Submit an application with a written request for a letter of concurrence;
- (2) Meet all federal requirements; and
- (3) Meet all state requirements.

NEW SECTION**WAC 246-562-120 Department review and action.**

(1) The department will review applications for completeness in date order received.

(2) Applications must be mailed, sent by commercial carrier, or delivered in person. Applications may not be sent by telefax, or electronically.

(3) The department may limit the time period during which applications may be submitted including cutting off applications after the state has sponsored all applications allowed in a given federal fiscal year.

(4) Should multiple applications arrive at the department on the same day, the department will rank those applications according to the following criteria:

(a) Federally designated shortage facilities will rank first.

(b) Those applicants serving shortage areas that require the greatest number of physicians to remove them from federal shortage status will rank second.

(c) Publicly funded employers, such as public hospital districts and community health centers, who have an obligation to provide care to under-served populations will rank third.

(d) If multiple applications within a designated category arrive on the same day, those applications will be ranked within that category based on random selection.

(e) If a ranked order cannot be determined by using the criteria in (a) through (d) of this subsection, then applications will be ranked based on random selection.

(5) The department will review applications within ten working days of receipt of the application to determine if the application is complete.

(6) The department will return incomplete applications to the applicant, and provide a written explanation of missing items.

(7) Incomplete applications may be resubmitted with additional required information. Resubmitted applications will be considered new applications and will be reviewed in date order received on resubmission.

(8) The department will return applications that are received after the maximum number of sponsorships have been approved. This does not apply to requests for concurrence.

(9) The department will return sponsorship applications to applicants who have had two approved sponsorships in the current year for the shortage area.

(10) If the Washington state medical license is pending at the time the application is submitted to the department, the department may:

- (a) Sponsor or concur;
- (b) Hold the application in order received; or
- (c) Return the application as incomplete.

(11) The department will review complete applications against the criteria specified in chapter 246-562 WAC.

(12) The department may:

- (a) Request additional clarifying information;
- (b) Verify information presented;
- (c) Investigate financial status of the applicant.

(13) The department will notify the applicant in writing of action taken. If the decision is to decline sponsorship, the department will provide an explanation of how the application failed to meet the stated criterion or criteria.

(14) The department may deny a visa waiver request or, prior to USIA approval, may withdraw a visa waiver recommendation for cause, which shall include the following:

(a) The application is not consistent with state and/or federal criteria;

(b) Fraud;

(c) Misrepresentation;

(d) False statements;

(e) Misleading statements; or

(f) Evasion or suppression of material facts in the visa waiver application or in any of its required documentation and supporting materials.

(15) Applications denied may be resubmitted with concerns addressed. Resubmitted applications will be considered new applications and will be reviewed in date order received.

NEW SECTION

WAC 246-562-130 Eligibility for future participation in the visa waiver program. (1) Health care facilities may be denied future participation in the state visa waiver program if:

(a) The required six-month reports are not submitted in a complete and timely manner.

(b) A sponsored physician does not serve the designated shortage area and/or shortage population for the full three years of employment.

(c) A sponsored physician does not remain employed by the applicant for the full three years of employment.

(2) A health care facility may request a determination of eligibility prior to submitting an application. The department will review the situation upon receipt of a written request.

NEW SECTION

WAC 246-562-140 Department's responsibility to report to the United States Information Agency. (1) The department may report to the United States Information Agency if the applicant or physician is determined to be out of compliance with any of the provisions of this chapter.

(2) The department may report to the United States Information Agency if the physician is determined to have left employment in the federally designated area.

NEW SECTION

WAC 246-562-150 Appeal process. (1) The applicant or physician may appeal the following department decisions:

- (a) To deny or withdraw a visa waiver sponsorship;
- (b) To deny or withdraw a sponsorship concurrence;
- (c) Determination that the applicant or physician is out of compliance with this chapter; or

(d) Determination that the applicant is not eligible for future participation in the visa waiver program.

(2) The appeal process is governed by the Administrative Procedure Act (chapter 34.05 RCW), chapter 246-10 WAC, and this chapter.

(3) To initiate an appeal, the applicant must file a written request for an adjudicative proceeding within twenty-eight days of receipt of the department's decision.

(4) The request shall be mailed, by a method showing proof of receipt, to the Adjudicative Clerk Office, PO Box 47879, 2413 Pacific Avenue, Olympia, WA 98504-7879.

(5) The request must contain:

- (a) A specific statement of the issue or issues and law involved;
- (b) The grounds for contesting the department's decision; and
- (c) A copy of the department's decision.

WSR 98-15-157**PROPOSED RULES****DEPARTMENT OF AGRICULTURE**

[Filed July 22, 1998, 11:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-08-034.

Title of Rule: Livestock identification program.

Purpose: To update livestock identification rules and implement changes in livestock inspection procedures resulting from a legislatively-mandated 20% rollback in fees and reducing revenues.

Other Identifying Information: Five separate rules on similar livestock inspection topics were rewritten as one comprehensive, easy to read rule.

Statutory Authority for Adoption: RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.030, 16.58.050, 16.65.037, and 16.65.090.

Statute Being Implemented: Chapters 16.57, 16.58, and 16.65 RCW.

Summary: The proposed rule implements changes in livestock inspection procedures due to a 20% reduction in fees and declining revenues. This rule review also meets requirements under regulatory reform to review rules at least once every four years. 1998 legislation also provided that the department may certify veterinarians to perform livestock inspections.

Reasons Supporting Proposal: Changes needed to be made in inspection procedures to reduce the cost of inspections for the livestock industry and because of the reduction in fees.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Julie Sandberg, 1111 Washington Street, Olympia, WA 98504, (360) 902-1850.

Name of Proponent: Washington State Veterinary Medicine Association, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Currently the livestock identification program operates with five separate WACs. Our review process resulted in updating those WACs and creating one comprehensive rule which is easier to read and understand. This new rule clearly states the expanded use of the self-inspection format between buyer and seller for private treaty transactions, entry of cattle into certified feed lots and sales to slaughterplants. This will result in reduced costs for livestock producers who currently must pay time and mileage for a department inspection for private sales.

Proposal Changes the Following Existing Rules: This proposal combines five WAC sections thereby repealing the following: Chapters 16-96, 16-605A, 16-608, and 16-520 WAC in its entirety; and all sections of chapter 16-604 WAC excluding WAC 16-604-009, 16-604-020, 16-604-025, and 16-604-040.

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

Small Business Economic Impact Statement

Rule Summary: Proposed WAC 16-607-045 and 16-607-050 allow for the expanded use of self-inspection procedures in lieu of inspection by the Washington State Department of Agriculture (WSDA) for livestock sales taking place at certified feedlots, USDA slaughterplants and all other private sales where livestock remain in state. This rule does not impact the current inspection requirements for out-of-state movement of livestock. Proposed WAC 16-607-040 allows for the purchase invoice issued by a public livestock market to serve both as an invoice and as a WSDA inspection release. Proposed WAC 16-607-060 allows the director to certify licensed and accredited veterinarians to issue inspection documents for livestock.

These rule changes are necessary for the department to continue to offer to the industry a viable livestock identification program impacted by a twenty percent legislatively mandated fee rollback effective July 1, 1998.

These rules are being adopted under the authority of RCW 16.57.160, 16.57.220, 16.57.240, 16.57.350, 16.58.050, 16.58.030, 16.58.130, and 16.65.037, 16.65.090.

Affected Groups: The following groups will be affected: Fourteen public livestock markets (SIC Code 42252); eight certified feed lots (SIC Code 112112); eleven USDA-inspected slaughter plants (SIC Code 311611); and any individual involved in a private sale (SIC Code 11299) will experience only a minor financial impact as a result of the rule changes. The department currently requires these groups to keep records on all livestock transactions (RCW 16.57.240, 16.65.170, and 16.58.110). The most significant recordkeeping change will impact the livestock markets by reducing duplication of information provided to purchasers. Under the new program only one form will be required for the purchaser's transaction process. The seller's invoice issued by the market will also serve as an inspection release from the market. Transactions will take less time to complete and there will be reduced documents required for the public and the department. The current livestock tracking system, used by both USDA and the WSDA animal health programs, will not be affected by the proposed rules.

The department will provide transition assistance to affected groups, as well as oversight on a routine basis at no additional cost to the industry.

Cost: Proposed rule changes will allow the self-inspection certificates to be used at a wider variety of locations and will result in substantial savings and added convenience for the livestock industry.

Current System: Under the current system the producer is subject to a "time and mileage" charge if the per head fee does not cover the actual cost of a WSDA inspection. In an analysis conducted by the department in 1994 it was determined that the majority of inspection requests were made by producers who were marketing fifteen head or less at one time. In cases where the inspector and the producer were a great distance apart, the actual cost of the inspection would be many times higher than the normal fee. Current time and mileage fees are \$15.00 per hour and \$.315 per mile and include travel time to and from the inspection location and time spent performing the inspection.

Proposed System: The purchase price of a self-inspection certificate is \$1.60 per head. The cost breakdown is sixty cents for WSDA and \$1.00 for the federally mandated Beef Commission assessment. Livestock producers marketing small numbers of animals will receive the most benefit with this new format as no time and mileage costs will be incurred.

Because self-inspection certificates may be purchased in advance, the producer will be able to market animals without delays. Delays occur during times when a department inspector is not readily available. This will be a distinct marketing advantage and convenience for those who do business after normal business hours, on weekends and on holidays.

Industry Outreach: The department has consulted with the Livestock Identification Advisory Board, a statutory board made up of representatives of all segments of the livestock industry; contacted other states operating livestock identification programs; and made presentations at industry meetings prior to writing the draft rules. The department also developed and mailed an informational sheet to over 7000 members of the livestock industry. Information was posted at centrally located industry points, such as livestock markets, feed stores and special events. During our outreach program,

we received valuable suggestions and have incorporated them into the final draft rules.

Benefits and Mitigation: The following is a list of benefits and mitigation efforts developed for these rules:

1) The cost of compliance with the proposed rules will not cause livestock producers to lose sales or revenue.

2) To ensure the industry has easy access to self-inspection certificates, steps are being taken to establish a request system so that certificates may be purchased using a credit card through the mail or by phone. The certificates may also be purchased directly from specific field staff located throughout the state.

3) In livestock sales involving the marketing of fifteen head or less at one time by a producer, the cost for inspection will be reduced because the self-inspection format replaces the cost of time and mileage for a department inspector. The format is also a convenience for those individuals conducting business outside of normal business hours or with short notice requesting an inspector.

4) No additional recordkeeping will be required and implementation of the rules will eliminate duplication of documentation at the public livestock markets where nearly 50% of livestock inspections occur. Purchase invoices currently used will now serve both as the release document for the department and the purchaser resulting in a fifty percent reduction in paperwork.

5) Proposed WAC 16-607-105 allows certified veterinarians to issue inspection and health certificates simultaneously. This will streamline the inspection system and eliminate duplication of services for producers transporting livestock to out-of-state locations.

6) Technical assistance and oversight will continue to be provided by the department. Inspection staff will focus their efforts on inspection/identification of livestock prior to movement out of state and when consigning to public livestock markets. While sellers and buyers at other points will have personal responsibility for verifying ownership, department inspectors will continue to provide oversight and assist with ownership disputes.

A copy of the statement may be obtained by writing to Julie C. Sandberg, Assistant Director, Consumer and Producer Protection Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1850, fax (360) 902-2086.

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: Shilo Inn, 1819 East Kitleson Road, Moses Lake, WA, on August 25, 1998, at 10:00 a.m.; and at Room 259, NRB Building, 1111 Washington Street, Olympia, WA, on August 26, 1998, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by August 18, 1998, TDD (360) 902-1996.

Submit Written Comments to: Julie C. Sandberg, Assistant Director, Consumer and Producer Protection Division, Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2086.

Date of Intended Adoption: August 28, 1998.

July 22, 1998

Julie C. Sandberg
Assistant Director

PROPOSED

Inspection and Identification of Livestock**NEW SECTION**

WAC 16-607-005 Definitions. (1) "Association of livestock breeders" means any properly incorporated association whose membership is made up of livestock breeders.

(2) "Brand" means a permanent fire brand, or any artificial mark, other than an individual identification symbol, approved by the director to be used in conjunction with a brand or by itself.

(3) "Brand inspection" or "livestock inspection" means the examination of livestock or livestock hides for brands or any means of identifying livestock or livestock hides including the examination of documents providing evidence of ownership.

(4) "Certificate of permit" or "transportation permit" means a form prescribed by and obtained from the director that is completed by the owner or a person authorized to act on behalf of the owner to show the ownership of livestock. It does not evidence inspection of livestock.

(5) "Collecting point" means livestock inspection points designated by the Washington state beef commission to collect beef commission assessment payments directly from cattle producers and remit to the Washington state beef commission.

(6) "Department" means the department of agriculture of the state of Washington.

(7) "Director" means the director of the department or his duly authorized representative.

(8) "Farmers cooperative association" means any properly incorporated cooperative association whose membership is made up of livestock producers.

(9) "Individual identification symbol" means a permanent mark placed on a horse for the purpose of individually identifying and registering the horse and which has been approved for use as such by the director.

(10) "Inspection certificate" means a certificate issued by the director or a veterinarian certified by the director documenting the ownership of an animal based on an inspection of the animal. It includes an individual identification certificate.

(11) "Licensee" means any person licensed to operate a market under Chapter 16.65 RCW.

(12) "Livestock" means all cattle, horses, burros, and mules of whatever species, breed or age.

(13) "Lot" means livestock of one ownership.

(14) "Market" means public livestock market as defined in RCW 16.65.010(1).

(15) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. This term shall import either the singular or the plural as the case may be.

(16) "Production record brand" means a number brand which is used for production identification purposes only.

(17) "Purchase invoice" means the invoice issued by a public livestock market to the purchaser of cattle or horses consigned to the market.

(18) "Self-inspection certificate" means a form prescribed by and obtained from the director that is used for self-

inspection of cattle or horses and is signed by the buyer and seller of the cattle or horses.

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 16-607-010 The livestock identification advisory board. (1) The livestock identification advisory board established in RCW 16.57.015 is composed of six members appointed by the director. The advisory board shall meet at least once annually with the director to perform its advisory functions. Additional meetings may be convened at the request of the director or a majority of the membership.

(2) Advisory board members must be residents of the state of Washington and actively engaged in the industry they represent. The director is an ex-officio member of the advisory board.

(3) Advisory board members serve three-year terms. Terms commence July 1 and expire June 30.

(4) Positions are numbered one through six as follows:

(a) Position one - beef producers;

(b) Position two - public livestock market operators;

(c) Position three - horse owners;

(d) Position four - dairy farmers;

(e) Position five - cattle feeders; and

(f) Position six - meat processors.

(5) On initial appointment, positions one and four serve a one-year term; positions two and five serve a two-year term; and positions three and six serve a three-year term.

(6) Vacancies in membership may be filled by the director for the remainder of an unexpired term. Current members of the advisory board and presidents of affected statewide industry groups may submit names to the director for consideration in filling vacancies.

(7) The director shall solicit nominations to fill an expiring position from affected statewide industry groups. Nominations from industry groups shall be submitted to the director for consideration prior to May 1 of the year the term expires.

NEW SECTION

WAC 16-607-015 Official forms. (1) Official forms prescribed by the director under the provisions of RCW 16.57.240 include the certificate of permit, livestock inspection certificate and self-inspection certificate. The forms include the owner's name, number, breed, sex, brand or other method of identification of livestock and other information deemed necessary by the department.

(2) Books of the certificate of permit are obtained from the department upon payment of one dollar.

NEW SECTION

WAC 16-607-020 Point of inspection—Cattle. All cattle shall be inspected for brands or other proof of ownership at the following points:

(1) Prior to being moved out of state, except as provided in WAC 16-607-035(2).

(2) Prior to sale at any public livestock market.

(3) Prior to slaughter at any slaughter plant where the United States department of agriculture maintains meat inspection, unless the cattle originate from a certified feed lot or are accompanied by:

(a) An inspection certificate issued by the director or a veterinarian certified by the director or any other agency authorized in any other state or any Canadian province by law to issue such a certificate; or

(b) A purchaser's invoice issued by a public livestock market.

(4) Upon entry or reentry and prior to commingling with other cattle at any certified feed lot licensed under chapter 16.58 RCW, unless the cattle are accompanied by:

(a) An inspection certificate issued by the director or a veterinarian certified by the director or any other agency authorized in any other state or any Canadian province by law to issue such a certificate; or

(b) A purchaser's invoice issued by a public livestock market.

(5) At any point of sale or the taking of possession by an intended purchaser or private agent subject to title passing, except that inspection shall not be required for any individual private sale of any unbranded female dairy breed cattle involving fifteen head or less. Exemption from mandatory inspection does not exempt cattle sellers from paying assessments due to the Washington State Beef Commission under Chapter 16.67 RCW.

NEW SECTION

WAC 16-607-025 Point of inspection—Horses. All horses shall be inspected for brands or other proof of ownership at the following points:

(1) Prior to being moved out of state, except as provided in WAC 16-607-035.

(2) Prior to sale at any public livestock market.

(3) Prior to sale at any special open consignment horse sale as defined in RCW 16.65.010.

(4) Prior to sale at any special sale where horses of more than one owner are offered for sale on an occasional and seasonal basis either by private treaty or auction.

NEW SECTION

WAC 16-607-035 Out-of-state inspection procedure.

(1) All cattle and horses shall be inspected by the department or a certified veterinarian for brands or other proof of ownership prior to being moved out of state, except as provided in WAC 16-607-035(2) or when accompanied by a purchase invoice issued by a public livestock market.

(2) Livestock may be moved out of state without prior livestock inspection when they are destined for a public livestock market or slaughterplant in another state where brand inspection is performed by the department or an agent pursuant to an agreement with the other state. The livestock moving out-of-state to those public livestock markets or slaughterplants must be accompanied by a certificate of permit showing that the livestock are directly destined for and transported to the out-of-state inspection point. The certificate of

permit is not valid for transportation to any other inspection point or beyond the inspection point.

NEW SECTION

WAC 16-607-040 Livestock inspection procedures—Public livestock markets. The department will provide for livestock inspection at public livestock markets. The purchase invoice issued by public livestock markets serves as inspection clearance for out-of-state livestock movement and allows for transporting livestock to the declared destination. If brands and marks are shown, the purchase invoice serves as proof of ownership.

NEW SECTION

WAC 16-607-045 Livestock inspection procedures—Certified feed lots, slaughterplants, beef commission assessment collecting points. (1) Livestock inspection of cattle required under WAC 16-607-020 (3), (4) and at other beef commission assessment collecting points is conducted by the seller and buyer. If the livestock are consigned for custom feeding or custom processing, the certified feed lot or plant assumes the responsibility of the buyer and the owner assumes the responsibility of the seller.

(2) The seller presents to the buyer a completed certificate of permit. The seller retains one copy and provides the original and one copy to the buyer. Additional proof of ownership must be provided to the buyer for all brands not recorded to the seller. (3) The buyer shall provide to the seller a receiving/scale ticket or any customary form indicating receipt of the livestock.

(4) The buyer shall collect and remit inspection fees to the department.

NEW SECTION

WAC 16-607-050 Livestock inspection procedures—Private treaty sales. Livestock inspection of cattle required under WAC 16-607-020(5) may be conducted by the department, by veterinarians certified by the department, or by the buyer and seller.

(1) Inspection by the department is on request and is provided at the discretion of the director.

(2) Livestock inspection of cattle required under WAC 16-607-020(5) conducted by the buyer and seller is documented using self-inspection certificates obtained from the department.

(3) Self-inspection certificates must be fully completed and signed by the buyer and seller. The original shall be provided to the buyer and accompany the cattle and the seller shall retain a copy.

(4) Additional proof of ownership must be provided to the buyer for all livestock bearing brands not recorded to the seller.

(5) The cost of self-inspection certificates includes the current cattle inspection fee and the assessment for the National Beef Promotion and Research Act. The department will remit assessments collected to the Washington state beef commission.

NEW SECTION

WAC 16-607-055 Review of complaints and procedures. (1) The department will review or investigate all formal complaints filed regarding ownership disputes and assist in resolving those disputes.

(2) The department will regularly evaluate inspection procedures and recordkeeping at established livestock inspection points through unscheduled visits during normal business hours.

NEW SECTION

WAC 16-607-060 Certification of veterinarians to issue inspection certificates. The director may certify veterinarians licensed and accredited in Washington state to issue inspection certificates for livestock.

(1) No veterinarian may issue an inspection certificate unless the individual has met the certification requirements and paid the certification fee.

(2) Application for certification is on a form prescribed by the director. The application will include the following information:

(a) The full name and principal business of the individual applying for certification.

(b) The applicant's Washington state veterinary license number.

(c) The geographic area in which the applicant will provide service.

(d) A statement regarding the applicant's experience with large animals, especially cattle and horses.

(e) Whether the applicant is requesting certification to issue inspection certificates for cattle or horses or both.

(f) The signature of the veterinarian requesting certification.

(g) Any other reasonable information the department finds necessary to carry out the purpose of this chapter.

(3) The fee for certification is thirty-five dollars. The certification expires on the third December 31st following the date of issuance.

(4) All veterinarians applying for certification must complete training provided by the department. Training will include but not be limited to the reading of printed brands and brands or other marks on live animals, completion of official documents and review of satisfactory ownership documents. The department will provide a copy of the most current brand book and any supplements issued to date to each person certified.

(5) The department will maintain a list of veterinarians certified to perform livestock inspection. The list is available upon request to interested persons.

(6) Certified veterinarians must submit required inspection fees to the department with copies of each certificate issued. An additional fee may be charged that is separate from fees collected under RCW 16.57.220 and WAC 16-607-065.

(7) The department may withdraw or deny approval of certified veterinarians to perform livestock inspection under the following circumstances:

(a) For knowingly making false or inaccurate statements regarding qualifications on an application.

(b) For knowingly making or acquiescing in false or inaccurate statements on livestock inspection certificates as to the date or location of the inspection, marks or brands on the livestock inspected, owner's name or any other statement material to the livestock inspected.

NEW SECTION

WAC 16-607-065 Inspection fees. (1) The fee for livestock inspection is sixty cents per head for cattle and two dollars and forty cents per head for horses, except as provided for in subsection (4) of this section.

(2) The fee for individual identification certificates is seven dollars and fifty cents for an annual certificate and fifteen dollars for a lifetime certificate, except as provided for in subsection (5) of this section.

(3) There is a minimum fee of \$2.50 for the issuance of any inspection certificate by the director except for those issued at a public livestock market sale or special sale approved by the director.

(4) When inspection is performed by the department, the fee is sixty cents per head for cattle and two dollars and forty cents per head for horses or fifteen dollars per hour and the current mileage rate set by the office of financial management, whichever is greater, except as provided for in RCW 16.65.090.

(5) When individual identification certificates are issued by the department, the fee for an annual certificate is seven dollars and fifty cents and fifteen dollars for a lifetime certificate or fifteen dollars per hour and the current mileage rate set by the office of financial management, whichever is greater.

(6) All inspection performed on an hourly basis by the department begins at the time the inspector leaves his or her official station to the point of inspection and ends upon return to his or her official station.

(7) Veterinarians certified by the department may charge an additional fee that is separate from livestock inspection fees.

NEW SECTION

WAC 16-607-070 Renewal of registered brands. Owners of registered brands must file for renewal of registration by December 31st of odd-numbered years. A late filing fee of ten dollars shall accompany any renewals filed after December 31st of odd-numbered years.

NEW SECTION

WAC 16-607-075 Recording fees. The fee for recording any instrument affecting the title of a brand is fifteen dollars. The fee for obtaining a certified copy of the record of a brand by the owner of the brand is seven dollars and fifty cents.

NEW SECTION

WAC 16-607-080 Identification by freeze branding. The technique of identifying livestock by freeze branding

may be used for complying with the requirements of chapter 16.57 RCW and chapter 16-607 WAC.

NEW SECTION

WAC 16-607-085 Use of production brands for dairy cattle. Cattle for dairy purposes may be identified by branding on any point between the hock and the stifle of the right or left hind leg, or both, by the owner. Any digit or combination of digits may be used.

NEW SECTION

WAC 16-607-090 Use of production brands for beef cattle. (1) Cattle of the beef breeds may be identified by branding high on either the left or right shoulder, or both, by the owner. The use of production record brands on cattle of the beef breeds shall be allowed only when such cattle are identified with such owner's registered brand: Provided, That production record brands may be placed on registered cattle of the beef breeds without the use of an ownership brand.

(2) Any digit or combination of digits may be used, with the exception of the following numbers:

(a) Not permissible on the right shoulder are 7, 60 and 717;

(b) Not permissible on the left shoulder are 14, 25 and 77.

NEW SECTION

WAC 16-607-095 Production record brands to consist of Arabic numbers only—Exception. (1) Production record brands shall consist only of Arabic numbers and may include any digit or any combination of such digits in groups, except as limited in WAC 16-607-090.

(2) Production record brands must be recorded with the department of agriculture in the same manner as an ownership brand under the provisions of chapter 16.57 RCW, before they may be legally used in this state.

(3) No fee will be charged for recording a production brand if the same person has already paid to record an ownership brand.

(4) No production record brand will be recognized for ownership purposes, registered for ownership purposes, or accepted for livestock inspection purposes.

NEW SECTION

WAC 16-607-100 Custom slaughter beef tag. Any person licensed as a custom slaughterer shall complete and attach a custom slaughter beef tag to each of the four quarters of all slaughtered cattle handled by that slaughterer. The tags must remain on the quarters until the quarters are cut and wrapped. Only the department may provide custom slaughter beef tags to custom slaughterers. The fee for each set of four custom slaughter beef tags is one dollar and fifty cents. The department will maintain a surveillance and enforcement program to assure compliance with these requirements.

NEW SECTION

WAC 16-607-105 Certificate of permit required for custom slaughtered cattle. Any person presenting his or her cattle for slaughter by a licensed custom slaughterer shall provide to the custom slaughterer a completed certificate of permit. The number of the custom slaughter beef tag attached by the custom slaughterer shall be listed on the certificate of permit.

NEW SECTION

WAC 16-607-110 Livestock identification on slaughtered cattle by owner. No custom meat facility may receive a carcass from other than a custom farm slaughterer mobile or fixed location or an officially inspected slaughterplant unless it is accompanied by a certificate of permit signed by the owner of the carcass.

NEW SECTION

WAC 16-607-115 Certified feed lot licensing. (1) Prior to issuance of an original certified feed lot license the director will conduct an inspection of all cattle and their corresponding ownership documents. The inspection fee shall be the higher of the current inspection fee per head of cattle or time and mileage as set in RCW 16.57.220.

(2) Certified feed lot licenses issued under RCW 16.58.060 expire on June 30th following the date of issuance.

(3) Upon non-renewal of a certified feed lot license all cattle inventory in a feed lot is subject to inspection requirements for non-certified feed lots.

NEW SECTION

WAC 16-607-120 Public livestock market requirements. (1) Whenever any cattle or horses are offered for sale at a market and not sold, the identical animals may be offered for sale at the same market within eight days of the original inspection date without being required to pay a second livestock inspection fee, upon presentation of satisfactory proof that inspection fees previously were paid. The unsold cattle or horses must be presented for inspection without any animals having been taken from, or other animals having been added to, such lot or group of livestock and must be retained on the premises where first offered for sale within the time limit specified above.

(2) It is the responsibility of the licensee to identify each head of cattle and horses consigned to a market by placing a numbered tag or other method of identification as approved by the director on each animal before the animals are inspected. The director may exempt from individual identification requirements certain lots of one-brand or no-brand cattle. The licensee or any consignor shall, at the request of the director, make visible any brand on any animal. The licensee is responsible for the moving and yarding of livestock necessary for inspection.

(3) No person shall remove any cattle or horses from the premises of any market without first obtaining a release from the licensee. The licensee or any agent or employee of the licensee shall not allow the removal of any cattle or horses

from the premises of the market without first obtaining a livestock inspection clearance for the cattle or horses to be removed. The purchase invoice serves as the inspection clearance. The purchaser may request that the director issue an inspection certificate at no additional cost.

NEW SECTION

WAC 16-607-125 Public livestock market livestock inspection facilities. Livestock inspection facilities at public livestock markets shall be approved by the director and shall consist of:

(1) A chute which has a solid base on each side of sufficient strength to contain cattle and horses at least twenty-four inches in height, but no more than thirty-six inches in height. Above the base on each side, the chute shall have wire cables extended along its entire length separated by six-inch intervals to a height of at least six feet. The cables shall be attached to a vertical post every sixteen feet, alternated with a pipe or stay every eight feet for support and to ensure that the cables are maintained in a tight condition. The brand chute shall be kept well lit with shop, spot, or floodlights on both sides of the chute at a height of five feet above the highest cable. The lighting shall extend for a distance of three-fourths of the length of the chute beginning at the head of the chute;

(2) An electrical outlets for clippers at chutes;

(3) A livestock inspection area kept free of any leaking or water build-up of any kind and well covered by adequate roofing;

(4) A work area for livestock inspectors on each side of the chute which shall be protected from cattle and horses being unloaded or moved by fencing or any other permanent structure allowing at least thirty inches of work space along the length of the chute.

(5) An office in the livestock inspection area with dimensions of at least eight feet by ten feet. The office shall contain adequate heating and a counter approximately eighteen inches in width at a standing work level.

NEW SECTION

WAC 16-607-130 Public livestock market scale installation regulations. (1) Approaches and accessibility for testing shall consist of:

(a) A convenient unobstructed hard surfaced approach to the livestock scale at the scale deck level when the scale is inaccessible for a test truck; and

(b) Doors and passageways which are a minimum of six feet in width.

(2) A scale deck shall be constructed preferably of reinforced concrete with "Z" bar coping. If cleats are used which are more than 3/4" in thickness, such cleats shall be hinged or readily removable, otherwise a satisfactory covering for such cleats must be provided to allow for proper testing.

(3) The stock rack shall be securely fastened to the scale deck. There shall be a minimum clearance of 3" between the rack and surrounding dead construction. Adequate space and visibility shall be provided so that interested parties may observe the weighing operation. All dial scales used by the

licensee shall be of adequate size to be readily visible to all interested parties and shall be equipped with a mechanical weight recorder. All beam scales used by the licensee shall be equipped with a balance indicator, a weigh beam and a mechanical weight recorder, all readily visible to all interested parties.

(4) The pit and foundation shall be of monolithic construction. Coping iron shall be required on all corners adjacent to the deck. The pit shall be six feet in depth, dry and readily accessible for inspection. Electrical lighting facilities for inspection shall be provided. Exception to the six-foot depth may be allowed, upon approval of the director, when conditions are sufficiently adverse. However, a minimum of two feet clearance shall always be provided between the lowest scale lever and the pit floor.

(5) The recording element shall be adequately housed for protection against wind and weather.

(6) No scales are required at markets licensed to handle horses and mules only unless animals are to be sold by weight. When animals are sold by weight, the scale requirements as shown previously shall apply.

NEW SECTION

WAC 16-607-135 Sale day. In any case where a licensed operator of a public livestock market fails to conduct a sale on a sale day which has been allocated to the licensee by the director more than six times in any twelve-month period, the allocation of that sale day is subject to change or revocation. Any change or revocation of an allocated sale day shall be considered in an administrative hearing conducted under the provisions of chapter 34.05 RCW.

NEW SECTION

WAC 16-607-140 Special sale approval. Application for approval of a special sale shall be made at least 15 days in advance of the proposed sale. Approval is subject to the discretion of the director.

NEW SECTION

WAC 16-607-145 Association membership. To assure that any special sale proposed by a farmers cooperative association or association of livestock breeders is limited to the sale of their own livestock, the association may be required to verify to the director that any person offering livestock for sale in the special sale was a member of the association at the time of the filing of any consignment application, contract or commitment.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-604-001	Promulgation.
WAC 16-604-002	Promulgation
WAC 16-604-003	Promulgation.

WAC 16-604-008	License fees.
WAC 16-604-010	Brand inspection regulations.
WAC 16-604-012	Brand inspection facilities
WAC 16-604-015	Sales day.
WAC 16-604-030	Scale installation regulations.

REPEALER

The following chapters of the Washington Administrative Code are repealed:

Chapter 16-620 WAC	Relating to brand inspection.
Chapter 16-608 WAC	Special livestock sales.
Chapter 16-605A WAC	Certified feed lots.
Chapter 16-96 WAC	Production record brands.

PROPOSED



NO EXPEDITED ADOPTIONS FILED IN THIS ISSUE

EXPEDITED ADOPTION



WSR 98-15-002
PERMANENT RULES
STATE BOARD FOR
COMMUNITY AND TECHNICAL COLLEGES

[Filed July 2, 1998, 12:25 p.m.]

Date of Adoption: June 18, 1998.

Purpose: General description of state board organization and operations; presentations and special meeting criteria, etc.

Citation of Existing Rules Affected by this Order: Amending WAC 131-08-005, 131-08-007, and 131-08-008.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Adopted under notice filed as WSR 98-10-074 on May 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 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, 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: Thirty-one days after filing.

July 2, 1998

Claire C. Krueger

Executive Assistant and

Administrative Rules Coordinator

AMENDATORY SECTION (Amending Order 136, Resolution No. 92-05-23, filed 6/8/92, effective 7/9/92)

WAC 131-08-005 General description of state board organization and operations. (1) The state board for community and technical colleges consists of nine members appointed by the governor. ~~((Successors of the))~~ Members ((initially appointed)) serve for terms of four years; or until a successor is named.

(2) The executive officer and secretary of the board is the executive director of the state system of community and technical colleges. The executive director is in charge of the offices of the board and responsible to the board for the preparation of reports and the collection and dissemination of data and other public information relating to the state system of community and technical colleges. The executive director exercises, in the name of the board, all powers and duties delegated by the board and at the direction of the board executes, together with the chair of the board, all contracts entered into by the board.

(3) It is the board's duty to exercise general supervision and control over the state system of community and technical

colleges consistent with the specific powers and duties set forth in the Community and Technical College Act of 1991, chapter 28B.50 RCW.

(4) The board's office is located in Olympia, Washington, 319 Seventh Avenue, 98504.

(5) Information about specific meeting places and times may be obtained at the board office. Formal submission or requests to the state board should be addressed to the executive director at the Olympia office.

AMENDATORY SECTION (Amending Order 136, Resolution No. 92-05-23, filed 6/8/92, effective 7/9/92)

WAC 131-08-007 Presentations to state board. Any interested individual or organization, upon written request to and receipt by the state board office at least two weeks in advance of the next scheduled board meeting, may request that any relevant matter concerning the state community and technical college system be placed on the board meeting agenda. The chair or the executive director of the state board may, however, waive this two week notification procedure, if in the judgment of either, sufficient emergency exists.

The following format shall be used by individuals or organizations in making their request for additions to the board meeting agenda:

- (1) Title of the item to be considered;
- (2) A brief descriptive background which includes relevant facts and documentary evidence, including written materials, personal interviews, expert testimony or matters of record;
- (3) Identification of the requesting party, including relevant organizational affiliations and job titles.

It shall be the prerogative of the board not to take any action on matters that come before the board pursuant to this rule.

In the case of presentations to the board on behalf of organizations, special interest groups, and other multimember bodies, testimony shall normally be limited to one individual representative.

In the case of all presentations, the board reserves the right, without notice, to limit the length of any particular presentation or to reschedule presentations when, in its judgment, the demands of public business before the board necessitate making such limitations.

It is the intent of the state board that procedures set forth in this regulation shall be liberally interpreted to the end that all interested citizens and organized groups shall be able to address the board on any matter relevant to its responsibilities and duties in the operations of Washington's community and technical college system. Notwithstanding any of the provisions of this section, impromptu comments or questions by members of the public or organization representative may be presented at any meeting of the board consistent with the provisions of chapter 42.30 RCW, the Open Public Meetings Act.

In the case of adoption, amendment or repeal of rules, which are subject to the provisions of the Administrative Procedure Act, chapter 34.05 RCW, the provisions of that chapter regarding the presentation of data, views or arguments to shall govern.

AMENDATORY SECTION (Amending Order 136, Resolution No. 92-05-23, filed 6/8/92, effective 7/9/92)

WAC 131-08-008 Special meetings of the state board.

Special meetings of the state board may be called by the chair or by a majority of the members of the state board (~~(by delivery personally or by mail written notice to each member)~~). Notification of such a meeting must be made at least twenty-four hours before the time of such meeting. Such notice shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings. Notice of such special meetings also shall be provided twenty-four hours prior to such meetings to each local newspaper of general circulation and to each local radio and television station which has on file with the state board a written request to be notified of such special meetings or of all meetings of the state board.

WSR 98-15-003

PERMANENT RULES

STATE BOARD FOR

COMMUNITY AND TECHNICAL COLLEGES

[Filed July 2, 1998, 12:38 p.m.]

Date of Adoption: June 18, 1998.

Purpose: Project even start.

Citation of Existing Rules Affected by this Order: Repealing WAC 131-47-115 and 131-47-120; and amending WAC 131-47-020, 131-47-025, 131-47-045, 131-47-050, 131-47-055, 131-47-090, 131-47-095, 131-47-110, 131-47-125, 131-47-130, 131-47-135, 131-47-140, 131-47-145, and 131-47-150.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Adopted under notice filed as WSR 98-10-043 on April 29, 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 14, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 14, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 14, Repealed 2.

Effective Date of Rule: Thirty-one days after filing.

July 2, 1998

Claire C. Krueger

Executive Assistant and

Administrative Rules Coordinator

AMENDATORY SECTION (Amending WSR 93-19-079, filed 9/15/93, effective 10/16/93)

WAC 131-47-020 Public policy goals of project even start. The public policy goals of project even start are to:

(1) Recognize that parents can be the most effective teachers for their children.

(2) Provide (~~(illiterate or semilliterate)~~) parents with low-literacy skills with opportunities to acquire basic skills and child development knowledge that will enhance their ability to assist and support their children in the learning process.

(3) Enhance children's learning experiences in the formal education environment by providing children with the motivation and positive home environment which contributes to enhanced academic performance.

AMENDATORY SECTION (Amending WSR 93-19-079, filed 9/15/93, effective 10/16/93)

WAC 131-47-025 Project even start—Definition. As used in this chapter, the term "project even start" means a program primarily designed to provide (~~(illiterate or semilliterate)~~) parents with low-literacy skills with basic skills instruction and which may include instruction in child development knowledge and other eligible program components as provided in WAC 392-315-030.

AMENDATORY SECTION (Amending WSR 93-19-079, filed 9/15/93, effective 10/16/93)

WAC 131-47-045 Eligible parents—Definition. As used in this chapter, the term "eligible parents" means one or more parents, which may be a biological or foster parent, a guardian, or a person with whom a child resides, and who meets the following two part test:

(1) (~~(Is illiterate or semilliterate)~~) Demonstrates low-literacy skills, i.e., has less than (~~(an eighth)~~) a ninth grade ability in one or more basic skill areas (~~(- Provided, That in the case of parents whose primary language is other than English, eighth grade ability shall be determined on the basis of performing basic skill activities in their native language)~~).

(2) Has a child enrolled in one of the following programs:

(a) State early childhood education and assistance program.

(b) Federal head start program.

(c) State or federally funded elementary school—i.e., grades K-8—basic skills program serving students who have scored below the national average of the basic skill areas of reading, language arts, or mathematics.

(d) A cooperative nursery—e.g., preschool or day care—at a community or technical college.

(e) A bilingual education/ESL program which includes children who are eligible for programs listed in (a) through (d) of this subsection.

(f) A program that serves children with special needs who are eligible for programs listed in (a) through (d) of this subsection.

AMENDATORY SECTION (Amending WSR 93-19-079, filed 9/15/93, effective 10/16/93)

WAC 131-47-050 Basic skills—Definition. As used in this chapter, the term ~~((“))basic skills((“))~~ means ~~((reading, language arts, and mathematics, including the readiness skills associated with such skills))~~ the ability to read, write, and speak in English, compute, and solve problems at levels of proficiency necessary to function on the job and in society, to achieve one's goals, and to develop one's knowledge and potential.

AMENDATORY SECTION (Amending WSR 93-19-079, filed 9/15/93, effective 10/16/93)

WAC 131-47-055 Standardized test—Definition. As used in this chapter, the term "standardized test" means any recognized test of adult basic skills and/or ESL that has received the prior approval of the state board for community and technical colleges and the adult education advisory council.

AMENDATORY SECTION (Amending WSR 93-19-079, filed 9/15/93, effective 10/16/93)

WAC 131-47-090 Assurance to submit annual evaluation report to the state board for community and technical colleges. No application for an even start project grant shall be approved by the ~~((superintendent of public instruction))~~ state board for community and technical colleges unless the authorized agent of the eligible grantee agrees to submit ~~((to the state board for community and technical colleges on a date established by the state board for community and technical colleges))~~ an annual evaluation report ~~((which shall contain the following:~~

- ~~(1) Progress made by adult enrolled as evidence by:~~
 - ~~(a) Grade equivalent or standardized test scores by basic skills at beginning and end of enrollment in even start programs;~~
 - ~~(b) Total number of instructional hours offered;~~
 - ~~(c) Total number of instructional hours actually received by participants;~~
- ~~(2) Effect of parents' participation in even start on children of enrollees as evidenced by:~~
 - ~~(a) Preinterviews and post interviews of parents; and/or~~
 - ~~(b) Other independent verifications of the parent's effect on the child's education;~~
- ~~(3) Summary impressions on the most effective methods and materials for serving specific populations;~~
- ~~(4) Observations regarding the effect of support services on program participation;~~
- ~~(5) Recommendations for program improvements;~~
- ~~(6) Estimated need for even start programs in service area versus number of participants enrolled;~~
- ~~(7) Such additional information as the state board for community and technical colleges shall request related to the effectiveness of the funded project even start))~~ containing the information requested by the state board for community and technical colleges as outlined in the request for proposals.

AMENDATORY SECTION (Amending WSR 93-19-079, filed 9/15/93, effective 10/16/93)

WAC 131-47-095 Reporting requirements. Successful applicants for project even start will be required to report fiscal, program, and client data to state board for community and technical colleges upon request.

At a minimum, applicants are required to ensure that:

(1) Financial systems allow for effective control and accountability for all program funds, property, and other assets, including use for authorized purposes only.

(2) Accounting systems will meet and comply with generally accepted accounting principles. Transactions will be supported by source documentation which identifies the source and use of the contract funds.

(3) The agency records management system provides for systematic accumulation; filing; retention of appropriate records; all contract documentation of accountability and an inventory of nonexpendable items. Included are vouchers; receipts; materials and equipment cost; facilities usage; and, general indirect costs.

(4) Program and client data are available at a minimum on a quarterly basis. ~~((Monthly))~~ Attendance records are kept on all participants.

AMENDATORY SECTION (Amending WSR 93-19-079, filed 9/15/93, effective 10/16/93)

WAC 131-47-110 Assurance of service to targeted groups. No application for an even start project grant shall be approved by the state board of community and technical colleges unless the authorized agent or eligible grantee agrees to provide written assurance that even start programs will serve one or more of the following groups:

- (1) Single heads of household.
- (2) Parents of early childhood education assistance program (ECEAP) participants.
- (3) Parents of federal head start program participants.
- (4) ~~((Public assistance recipients.))~~ Recipients of funds from the temporary assistance for needy families program.
- (5) Ethnic minorities.
- (6) ~~((Limited English proficient))~~ Parents who are below the ~~((eighth))~~ ninth grade literacy level ~~((in their own language)).~~
- (7) Parents of children with special needs.

AMENDATORY SECTION (Amending WSR 93-19-079, filed 9/15/93, effective 10/16/93)

WAC 131-47-125 Even start advisory committee. An advisory committee composed of at least ~~((one representative from among the following agencies/groups shall make recommendations to the state board for community and technical colleges regarding the implementation and operation of project even start and the proposal selection process:~~

~~Office of superintendent of public instruction, department of social and health services, department of community development, community-based agencies, adult basic education directors, local literacy councils, parent education specialists, state university colleges of education, common school districts, education service districts, ethnic minority~~

~~commissions, a local board of education, a business or industry with a commitment to education, and professional organizations devoted to early childhood education, reading instruction, and English as a second language (ESL) instruction, and department of social and health services or common school programs serving children with special needs in grades P-3. A selection committee approved by the advisory committee shall evaluate the proposals submitted under project even start. Members of the selection committee will not be from commissions, agencies, organizations, or schools which have submitted proposals, and, must not personally benefit from the outcome of the selection process)) ten representatives from citizens and groups within the state having an interest in family literacy shall make recommendations to the state board for community and technical colleges and the adult education advisory council on the administration and operation of project even start, including the need to change any statute or rule affecting family literacy programs.~~

AMENDATORY SECTION (Amending WSR 93-19-079, filed 9/15/93, effective 10/16/93)

WAC 131-47-130 Duties of even start advisory committee. The even start advisory committee shall select subcommittees of not more than seven members of the committee, or individuals approved by the committee to:

(1) Evaluate requests for proposals and make recommendations for funding to the state board for community and technical colleges, including the need for the state board for community and technical colleges to negotiate the terms, conditions, or funding of any grant proposal. Members of the selection subcommittee will not be from commissions, agencies, organizations, or schools which have submitted even start proposals and must not personally benefit from the outcome of the selection process.

(2) Make recommendations to the state board for community and technical colleges and the adult education advisory council on the administration and operation of project even start, including the need to change any statute or rule affecting ~~((project even start))~~ family literacy programs.

(3) Develop the bylaws that govern the activities of the advisory committee.

AMENDATORY SECTION (Amending WSR 93-19-079, filed 9/15/93, effective 10/16/93)

WAC 131-47-135 ~~((Priority projects.))~~ Preference for existing programs before developing new programs.

In accordance with RCW 28A.610.040, "before developing and funding new adult literacy programs to carry out the purposes of project even start," the state board for community and technical colleges shall fund the existing adult literacy programs and parent related programs which meet the conditions established in this chapter and are offered by the following agencies:

- (1) Common schools.
- (2) Community and technical colleges.
- (3) Community-based, nonprofit organizations.

AMENDATORY SECTION (Amending WSR 93-19-079, filed 9/15/93, effective 10/16/93)

WAC 131-47-140 Coordination of programs. Even start programs shall coordinate their services with programs that enroll the participants' children and programs that serve adult literacy. Such coordination is essential ~~((for several reasons:~~

~~(1) Parent participation opportunities in the children's programs enable parents to become involved in their children's learning and development.~~

~~(2) Resources available to children and parents through state funded early childhood education and assistance programs and federally funded head start programs and other programs serving at risk children complement those available to parents through even start.~~

~~(3) The support network of parents and instructional personnel offered through the children's programs will complement, extend, and continue the parent education component beyond participants' period of active involvement in the even start program)) so that:~~

~~(1) Parents can practice and receive feedback and guidance on the ways they interact with their children.~~

~~(2) Parents can take advantage of the resources and services offered by both the children's program and the program.~~

~~(3) Parents can continue to gain support from adult and child programs after their period of active involvement in the even start program is completed.~~

AMENDATORY SECTION (Amending WSR 93-19-079, filed 9/15/93, effective 10/16/93)

WAC 131-47-145 Evaluation criteria for project even start. Proposals for even start funds shall be evaluated according to the following criteria:

(1) The applicant's likely success in meeting the goals of this program;

(2) The need for literacy, basic skills, and child development instruction for illiterate and semiliterate parents of young children in the geographical area served by the applicant. All proposals must contain data which identify the estimated number of males and females to be served, the estimate of limited English-speaking adults and ethnic minorities to be enrolled, the number of anticipated public assistance recipients to be served, and the number of anticipated percentage of participants with children enrolled in early childhood education and assistance programs (ECEAP) and head start programs;

~~(3) ((The applicant's ability to design a unique program of instruction for parents which integrates instruction in literacy, basic skills, and child development knowledge;~~

~~(4) The linkages between the applicant's program and the instructional programs serving the children of the parents being served: Head start programs, early childhood education assistance program (ECEAP), state or federally funded elementary school basic skills programs serving students who have scored below the national average on basic skills tests, and cooperative preschools at community or technical colleges;~~

~~(5))~~ The applicant's plan for evaluating the effect of the program on both the parent participants and their preschool or school aged children;

~~((6))~~ (4) The cost-effectiveness of the program; and the reasonableness of the budget;

~~((7))~~ (5) The applicant's administrative capability; and

~~((8))~~ (6) The applicant's ability to ~~((cooperate and coordinate between a variety of relevant service providers in all phases of the program and the ability and willingness to leverage other resources to support the participants and the program))~~ meet the even start indicators of program quality as approved by the even start advisory committee.

AMENDATORY SECTION (Amending WSR 93-19-079, filed 9/15/93, effective 10/16/93)

WAC 131-47-150 Performance standards for project even start. Programs proposed under project even start shall:

(1) Reflect instructional methods, staffing patterns, curricula, and utilization of resources which reflect current research in adult learning theory, first and second language literacy acquisition, the role of parents in the child's acquisition of language, and effective parenting skills;

(2) Be sensitive to the social, cultural, and ethnic differences of the participants, and shall respond to those differences in the program design;

(3) Offer adult services at least ten hours per week for a minimum of ten weeks and for at least thirty weeks within a fifty-two week period;

(4) Meet the even start indicators of program quality as approved by the even start advisory committee.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 131-47-115 Priority groups.

WAC 131-47-120 Date of receipt of even start project proposals.

**WSR 98-15-006
PERMANENT RULES
STATE BOARD FOR
COMMUNITY AND TECHNICAL COLLEGES**

[Filed July 2, 1998, 1:00 p.m.]

Date of Adoption: June 18, 1998.

Purpose: Political activities of state board staff.

Citation of Existing Rules Affected by this Order: Amending WAC 131-40-010.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Adopted under notice filed as WSR 98-10-114 on May 6, 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.

July 2, 1998

Claire C. Krueger

Executive Assistant and

Administrative Rules Coordinator

AMENDATORY SECTION (Amending Order 32, filed 12/13/74)

WAC 131-40-010 Political activities of state board staff. In the belief that citizen involvement in public affairs is basic to the effective functioning of government at all levels, it shall be the general policy of the state board for community and technical colleges ~~((education))~~ to encourage the participation of employees of the office of the state board in public affairs and the full exercise of their privileges and duties as citizens.

The purpose of the following provisions is to provide guidance to employees of the state board so that they may engage in political activity in a manner consistent with the policies of other state agencies, the laws of the state of Washington, and the United States code sections covering political activity of state employees engaged in activities funded in whole or in part by federal funds. Both classified and exempt employees shall be governed by these provisions.

(1) Solicitation for any partisan political purpose or any compulsory assessment or involuntary contribution is prohibited on state property.

(2) Employees shall have the right to vote and to express their opinions on all political subjects and candidates.

(3) Nothing in this section shall prohibit appointment, nomination or election or part-time public office in a political subdivision of the state when the holding of such office is not incompatible with, nor substantially interferes with, the discharge of official duties in state employment.

(4) Nothing in this section shall prohibit appointment, nomination or election to public office at the federal level, provided that upon such appointment or election to a full-time position the employee shall resign his state board position without claim of reinstatement and provided further that the requirements of the Hatch Act are met.

(5) The rules and regulations of the United States Civil Service Commission that pertain to political activities shall apply to any person employed through or otherwise engaged in the administration or operation of federal grant programs.

PERMANENT

WSR 98-15-007
PERMANENT RULES
STATE BOARD FOR
COMMUNITY AND TECHNICAL COLLEGES

[Filed July 2, 1998, 1:03 p.m.]

Date of Adoption: June 18, 1998.

Purpose: Exceptional faculty awards trust funds, proceeds from the endowment fund shall be used to pay expenses for faculty awards - defines how faculty awards can be used.

Citation of Existing Rules Affected by this Order: Amending WAC 131-16-450.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Adopted under notice filed as WSR 98-10-046 on April 29, 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.

July 2, 1998

Claire C. Krueger

Executive Assistant and

Administrative Rules Coordinator

AMENDATORY SECTION (Amending Order 122, Resolution Nos. 90-42 and 90-43, filed 9/20/90, effective 10/21/90)

WAC 131-16-450 Exceptional faculty awards trust fund. (1) Pursuant to chapter 29, Laws of 1990, the community and technical college exceptional faculty award program shall be subject to the following limitations:

(a) All funds generated by and through this program shall be credited to the college district's exceptional faculty local endowment trust fund, from which only the earnings of such funds may be expended for the purpose of this program.

(b) Authorization to transfer funds from the exceptional faculty award trust fund in the state treasury to a college district endowment fund shall be contingent upon certification by the college district that no less than twenty-five thousand dollars of matching cash donations from private sources has been deposited in the district endowment fund.

(c) Grants to individual colleges shall not exceed:

~~((i)) One grant to each college prior to June 30, 1991, unless all colleges have received one grant each;~~

~~((ii)) Two grants to each college ((prior to December 31, 1991; and~~

~~((iii)) Four grants to each college in any single biennium)), each year, beginning July 1, 1998.~~

(d) Award of requested grants to colleges shall be contingent upon determination by the state board for community and technical college ((~~education~~)) that the request is consistent with and meets the requirements of these guidelines. Further, if grant requests exceed available funds, the state board for community and technical college ((~~education~~)) shall select the recipients.

(e) Funds granted for the purposes of the faculty awards program shall be held in trust by the district for the college to which such funds were specifically awarded.

(f) Each college district shall establish procedures by which awards may be named in honor of a donor, benefactor, or honoree; may designate the use of funds; and may renew or redesignate the award annually.

(g) By September 1 of each year beginning in 1991, each district shall report to the state board for community and technical college ((~~education~~)) the amount of contributed endowment funds, their earnings, type of investments, and uses made during the previous fiscal year.

(h) The process for determining awards shall be subject to collective bargaining, except that the amount of individual awards and the recipient(s) shall be determined by the district board of trustees.

(i) Only persons holding faculty assignments as defined by RCW 28B.52.020(2) shall be eligible to receive awards under this section.

(2) The award of exceptional faculty grants from the district endowment fund shall be subject to the following limitations:

(a) The proceeds from the endowment fund shall be used to pay expenses for faculty awards, which may include in-service training, temporary substitute or replacement costs directly associated with faculty development programs, conferences, travel, publication and dissemination of exemplary projects; to make a one time supplement to the salary of the holder or holders of a faculty award, for the duration of the award; or to pay expenses associated with the holder's program area.

(b) Funds from this program shall not be used to supplant existing faculty development funds.

WSR 98-15-008
PERMANENT RULES
STATE BOARD FOR
COMMUNITY AND TECHNICAL COLLEGES

[Filed July 2, 1998, 1:05 p.m.]

Date of Adoption: June 18, 1998.

Purpose: Certificate of educational competence (also known as the general education development (GED) test).

Citation of Existing Rules Affected by this Order: Amending WAC 131-48-010, 131-48-040, 131-48-060, and 131-48-100.

PERMANENT

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Adopted under notice filed as WSR 98-10-045 on April 29, 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 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 2, 1998

Claire C. Krueger
Executive Assistant and
Administrative Rules Coordinator

AMENDATORY SECTION (Amending WSR 93-22-006, filed 10/21/93, effective 11/21/93)

WAC 131-48-010 Authority. The authority for this chapter is RCW ((~~28B.50.915~~)) 28B.50.912 which authorizes the state board for community and technical colleges to adopt rules governing the eligibility of persons sixteen years of age or older to take the general educational development (GED) test subject to rules adopted by the state board of education.

AMENDATORY SECTION (Amending WSR 93-22-006, filed 10/21/93, effective 11/21/93)

WAC 131-48-040 General educational development test—Definition. As used in this chapter, the term "general educational development test" means the most recent general educational development test ((~~of the American Council on Education~~)) as determined by the authorizing agency.

AMENDATORY SECTION (Amending WSR 93-22-006, filed 10/21/93, effective 11/21/93)

WAC 131-48-060 Official GED testing center—Definition. As used in this chapter, the term "official GED testing center" means public or private agencies which have agreed to comply with the provisions of this chapter and with policies and regulations of the GED Testing Service, and which have been designated by the state board for community and technical colleges, administrator of the GED testing program to administer the general educational development test. Additional official GED testing centers and local GED examiners shall be approved by the state administrator of the GED testing program at the state board for community and technical colleges when the following have been documented:

(1) Need for a new testing site in a specific region or location;

(2) Need for new or replacement examiner at a testing center;

(3) Commitment of the governing board or, if none, the chief official of the proposed new testing center to meet all testing center requirements described in the *GED Examiner's Manual* published by GED Testing Service of the American Council on Education; and

(4) Availability of testing center personnel who meet the qualifications specified in the *GED Examiner's Manual* published by the GED Testing Service ((~~of the American Council on Education~~)) as determined by the authorizing agency.

AMENDATORY SECTION (Amending WSR 93-22-006, filed 10/21/93, effective 11/21/93)

WAC 131-48-100 Eligibility to take the GED test.

The following individuals shall be eligible to take the general educational development test in official GED testing centers, provided that they are not enrolled in ((~~the~~)) public, private, or home-based instruction of high school or a high school completion program at the time the test is administered:

(1) Any person age nineteen or over who has not graduated from a public or private high school.

(2) Any person between the ages of sixteen and nineteen who has not graduated from a public or private high school and who has been adjudged by a school district in accordance with rules of the state board of education to have a substantial and warranted reason for leaving the regular high school education program.

(3) Any student age sixteen or over who has completed an education center individual student program in accordance with the provisions of chapter 392-185 WAC.

(4) Any person between the ages of sixteen and nineteen who has not graduated from a public or private high school, and who has completed a program of home-based instruction in compliance with RCW 28A.225.010(4) as certified by the written and notarized statement of the parent(s) or legal guardian(s) who provided the home-based instruction.

(5) Any person who is an active member of the military, national guard, or reserves and has not received a high school diploma.

(6) Adjudicated youth under the director of prisons, jails, detention centers, parole and probation offices, and other correction facilities while enrolled in school if so ordered by a court or officer of the court.

WSR 98-15-009

PERMANENT RULES

STATE BOARD FOR

COMMUNITY AND TECHNICAL COLLEGES

[Filed July 2, 1998, 1:06 p.m.]

Date of Adoption: June 18, 1998.

Purpose: Relating to the running start program in institutions of higher education.

Citation of Existing Rules Affected by this Order: Repealing WAC 131-46-020, 131-46-025, 131-46-027, 131-46-029, 131-46-030, 131-46-035, 131-46-040, 131-46-045, 131-46-050, 131-46-055, 131-46-060, 131-46-065, 131-46-070, 131-46-075, 131-46-080, 131-46-085, 131-46-090, 131-46-095, 131-46-105, 131-46-110, 131-46-115, 131-46-120, and 131-46-125.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Adopted under notice filed as WSR 98-06-070 on March 3, 1998; and WSR 98-07-059 on March 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 23.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 23.

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 23.

Effective Date of Rule: Thirty-one days after filing.

July 2, 1998

Claire C. Krueger
Executive Assistant and
Administrative Rules Coordinator

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 131-46-020 Running start program—Definition.
- WAC 131-46-025 Eligible student—Definition.
- WAC 131-46-027 Running start student—Definition.
- WAC 131-46-029 College day—Definition.
- WAC 131-46-030 Full-time equivalent (FTE) running start enrollment—Definition.
- WAC 131-46-035 Annual average full-time equivalent (AAFTE) running start enrollment—Definition.
- WAC 131-46-040 Community and technical colleges—Definition.
- WAC 131-46-045 School district—Definition.
- WAC 131-46-050 Enrollment—General requirements and conditions.

- WAC 131-46-055 Enrollment—High school credit—Prior confirmation.
- WAC 131-46-060 Enrollment—Extent and duration.
- WAC 131-46-065 Enrollment—Extent and duration of combined high school and running start enrollment.
- WAC 131-46-070 Enrollment—Exception from tuition and fees.
- WAC 131-46-075 Enrollment—Continuing eligibility.
- WAC 131-46-080 Academic standards and discipline—Jurisdiction of educational agencies.
- WAC 131-46-085 Compliance with federal and state requirements of law—Special education program requirements—Necessary cooperative agreements.
- WAC 131-46-090 High school credit—Award by school districts.
- WAC 131-46-095 Finance—Generation and apportionment of state basic education moneys.
- WAC 131-46-105 Running start enrollment count dates.
- WAC 131-46-110 Finance—Community college and technical college reporting requirements.
- WAC 131-46-115 Finance—School district reporting requirements.
- WAC 131-46-120 Finance—Limitations on enrollment counts.
- WAC 131-46-125 Finance—Documentation requirements.

WSR 98-15-010

PERMANENT RULES

STATE BOARD FOR

COMMUNITY AND TECHNICAL COLLEGES

[Filed July 2, 1998, 1:09 p.m.]

Date of Adoption: June 18, 1998.

Purpose: Pertaining to prior approval by the state board by college districts for capital projects and acquisition of real property.

Citation of Existing Rules Affected by this Order: Repealing WAC 131-24-040; and amending WAC 131-24-010, 131-24-020, and 131-24-030.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

PERMANENT

Adopted under notice filed as WSR 98-06-073 on March 3, 1998; and WSR 98-07-059 on March 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 3, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, 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 0, Amended 3, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

July 2, 1998

Claire C. Krueger

Executive Assistant and

Administrative Rules Coordinator

AMENDATORY SECTION (Amending Order 3, filed 6/19/69)

WAC 131-24-010 Districts shall obtain prior approval of state board for capital projects and acquisition of realty. ~~((Community))~~ College districts that wish to contract for or otherwise cause the construction, reconstruction, erection, equipping, disposal, demolition, or alteration of buildings, facilities, or other capital assets; or to acquire, by purchase or lease, sites, right of way, easements, improvements, or appurtenances to real property and shall first obtain the approval of the state board for community and technical colleges ~~((education))~~ pursuant to the procedures established for such approval and action.

AMENDATORY SECTION (Amending Order 56, filed 4/2/76)

WAC 131-24-020 College district revenue bond issues—Approval required. (1) ~~((Community))~~ College districts that wish to issue revenue bonds pursuant to RCW 28B.50.140(6) must receive the prior approval of the state board and the state finance committee, as required by RCW 28B.50.409.

(a) District requests for state board approval shall consist of a written presentation describing the proposed use of the bond revenue, the need for the facility, cost projections, source and anticipated annual revenue pledged to debt service, and the characteristics of the bond issue proposed.

(b) After receiving state board approval, the requesting district and the state director or his designee will jointly prepare a request to the state finance committee for approval of the proposed issue.

(2) Following approval of a revenue bond issue, the district shall establish a bond retirement fund as required by RCW 28B.50.330. Subject to the provisions of RCW

28B.50.320, the district shall select a local depository into which it shall place all revenue pledged to debt service for such revenue bond issue. Any federal or state funds or other grants, bequests, gifts, or income therefrom pledged to the retirement of such revenue bond issue shall be deposited as herein provided; except, that if such funds could not be obtained if so deposited, they shall be deposited according to the applicable law or term of the trust, bequest, or gift.

(3) Nothing in this section shall be construed to change the current status of any revenue bond issues approved prior to the effective date of this rule and pursuant to WAC 131-04-010, which section is hereby repealed.

AMENDATORY SECTION (Amending Order 58, filed 5/10/76)

WAC 131-24-030 Capital construction projects—SEPA policies and procedures. (1) It shall be the policy of the state board for community and technical colleges ~~((education))~~ that capital projects proposed by ~~((community))~~ college districts shall be developed in a manner consistent with the provisions of chapter 43.21C RCW, the State Environmental Policy Act (SEPA), and chapter 197-10 WAC, guidelines for SEPA implementation.

(2) A ~~((community))~~ college district initiating a request for approval of any capital construction expenditure shall be considered the "lead agency" for the purpose of carrying out the provisions of chapter 43.21C RCW and chapter 197-10 WAC.

~~((3)) Community college districts seeking state board approval of capital project construction expenditures pursuant to WAC 131-24-010 shall provide as part of such requests a draft "declaration of significance/nonsignificance" regarding the potential adverse effects the proposed project would have on the environment.~~

~~((4)) The draft "declaration of significance/nonsignificance" shall conform in both form and supporting documentation, if such is required, to the provisions of WAC 197-10-355.~~

~~((5)) When the declaration required by subsection (3) of this section indicates a finding that there exists a reasonable belief by the lead agency that the proposed project could have a significant adverse effect on the environment, the request for state board approval of capital project construction funds shall be construed to be an affirmation that the district has complied with the provisions for preparation and circulation of draft and final environmental impact statements in WAC 197-10-410 through 197-10-695.)~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 131-24-040

Capital projects funded on the basis of voluntary student fees.

WSR 98-15-011
PERMANENT RULES
STATE BOARD FOR
COMMUNITY AND TECHNICAL COLLEGES

[Filed July 2, 1998, 1:11 p.m.]

Date of Adoption: June 18, 1998.

Purpose: Definition of resident student and procedures for classification.

Citation of Existing Rules Affected by this Order: Amending WAC 131-12-020, 131-12-030, 131-12-040, and 131-12-041.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Adopted under notice filed as WSR 98-06-069 on March 3, 1998; and WSR 98-07-059 on March 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 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 2, 1998

Claire C. Krueger

Executive Assistant and

Administrative Rules Coordinator

AMENDATORY SECTION (Amending Order 122, Resolution Nos. 90-42 and 90-43, filed 9/20/90, effective 10/21/90)

WAC 131-12-020 Definition of resident student and procedures for classification. ~~((For tuition purposes, an applicant or enrolled student shall be deemed to be a resident student if he or she has been domiciled in the state of Washington for a full year prior to commencement of the quarter for which enrolled, or is a military personnel, or a staff member of the community college, or the child or spouse of such military personnel residing within the state or of a staff member of the community college. The definition of "domicile" shall be the legal definition.))~~ Students enrolled in a technical college are subject to the residency procedures of that technical college. For students of community colleges, residency, for purpose of tuition, shall be determined under the provisions of RCW 28B.15.012 and 28B.15.013.

The following procedures shall be followed by community colleges in making residency classifications:

(1) Upon receipt of an application for admission to the community college the applicant shall be classified as either a resident or nonresident as the facts may indicate.

(2) The notice of acceptance shall be accompanied by a statement of the applicant's residency classification and, in the case of those classified as nonresidents, a statement of the criteria and procedures to be followed for establishing resident status.

(3) Changes in residency classifications of applicants or enrolled students shall be made by the authorized college official as follows:

(a) In the case of applicants or enrolled students who have been classified as nonresident, upon presentation by the applicant or student or an authorized representative of sufficient proof that the applicant or enrolled student ~~((has been legally domiciled in the state of Washington for one year, or is a military personnel, or a staff member of the community college, or the child or spouse of a military personnel residing within the state or of a staff member of the community college))~~ meets the provisions of RCW 28B.15.012 and 28B.15.013; and

(b) In the case of applicants or enrolled students who have been classified as residents, upon presentation or discovery of proof that such individual is legally domiciled outside the state of Washington.

(4) In the event of dispute or question regarding the residency status of any applicant or enrolled student, the matter shall be referred to the office of attorney general for advice.

AMENDATORY SECTION (Amending Order 3, filed 6/19/69)

WAC 131-12-030 Districts authorized to restrict enrollment in classes, courses or programs. A community and technical college district may establish:

(1) Enrollment limits for any class, course or program when such restrictions are necessary because of limitations of physical facilities or operating funds or when such restrictions are consistent with generally accepted educational practices regarding efficient maximum class sizes.

(2) Reasonable prerequisites for enrollment in any class, course or program to insure that a student will profit or benefit from the particular class, course or program.

AMENDATORY SECTION (Amending Order 3, filed 6/19/69)

WAC 131-12-040 Districts shall establish rules allowing intercampus and intercollege enrollment. ~~((Community))~~ College districts that offer instruction in more than one location shall establish reasonable rules and procedures that will allow intercampus and intercollege enrollment of students without penalty or additional cost above the normal tuition, special fees, and incidental fees charged by the district for attendance at any single campus or college therein.

AMENDATORY SECTION (Amending Order 23, filed 12/18/73)

WAC 131-12-041 Interdistrict registration of students. Pursuant to authority granted in chapter 28B.50 RCW, the following regulations shall be observed by the commu-

nity college districts in the interdistrict enrollment of students without the payment of additional tuition and fees as required by RCW 28B.15.500.

(1) Interdistrict registration shall mean the concurrent enrollment of a student in community colleges operated by two or more community college districts.

(2) Interdistrict registration shall occur only on the basis of a specific agreement between the two or more colleges.

(3) If the student registers and pays (including loans, grants, waivers, and other forms of financial aid) the maximum tuition and fees in one college, a second college may allow such student to register for additional courses without payment of additional fees provided that the courses will not be offered by the first college in a manner that will enable the student to complete his or her program in a timely manner.

(4) If the student so enrolled under this interdistrict registration provision has paid less than the maximum amount of tuition and fees required by RCW 28B.15.500, the second college shall assess tuition and fees at the standard rate for the course registrations in that college up to that maximum. Withdrawal from the college or reduction of course load in the college of initial registration shall invalidate any cost-free registration at a second college unless the appropriate additional tuition and fees are paid.

(5) Students enrolled in a second college under the provisions of this regulation shall be required to comply with the regular registration procedure of such second college and shall be required to pay any additional special fees—such as laboratory, supply, use or records fees normally charged to students enrolled at that college.

WSR 98-15-012

PERMANENT RULES

STATE BOARD FOR

COMMUNITY AND TECHNICAL COLLEGES

[Filed July 2, 1998, 1:13 p.m.]

Date of Adoption: June 18, 1998.

Purpose: Institutional financial aid fund, various amendments as a result of the Washington Student Loan Guarantee Association being replaced by the Northwestern Educational Loan Association.

Citation of Existing Rules Affected by this Order: Amending WAC 131-36-010, 131-36-050, 131-36-100, 131-36-150, 131-36-200, 131-36-250, and 131-36-300; and new section WAC 131-36-055.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Adopted under notice filed as WSR 98-06-074 on March 3, 1998; and WSR 98-07-059 on March 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 8, 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.

July 2, 1998

Claire C. Krueger

Executive Assistant and

Administrative Rules Coordinator

Chapter 131-36 WAC

INSTITUTIONAL (~~LONG TERM LOAN~~) FINANCIAL AID FUND

AMENDATORY SECTION (Amending Order 90, Resolution 81-66, filed 9/23/81)

WAC 131-36-010 Purpose and intent. (1) The purpose of chapter 131-36 WAC is to implement the institutional (~~long term loan program~~) financial aid fund established by (~~section 9, chapter 257, Laws of 1981~~) RCW 28B.15.820.

(2) It is the intent of this chapter to provide for a (~~loan~~) financial aid program that will be operational in all Washington community and technical colleges (~~no later than spring quarter, 1982~~).

(3) Each community college and technical college shall deposit a minimum of three and one-half percent of revenues collected from tuition and services and activities fees in to the institutional financial aid fund.

(4) These funds shall be used in addition to and not to replace institutional funds that would otherwise support locally administered financial aid programs.

AMENDATORY SECTION (Amending Order 90, Resolution 81-66, filed 9/23/81)

WAC 131-36-050 Definitions. For the purposes of chapter 131-36 WAC, the following definitions shall apply:

(1) "Fund" shall mean the institutional (~~long term loan~~) financial aid fund established by (~~section 9, chapter 257, Laws of 1981~~) RCW 28B.15.820.

(2) (~~"Private financial institution"~~) shall mean an eligible lender as defined by the rules of the WSLGA.

(3) (~~"Uniform"~~) Current federal methodology shall mean the method of determining financial need (~~based on a comparison of assets and income with estimated costs of college attendance~~) as prescribed by the United States Department of Education.

(4) (~~"WSLGA"~~) (3) "NELA" shall mean (~~the Washington student loan guarantee~~) Northwestern Education Loan Association, a private student loan guaranteeing association authorized to guarantee educational loans in Washington granted pursuant to 20 U.S. Code Section 1071.

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~~((5))~~ (4) "Operational" shall mean that the institution has been approved as a lender and is eligible to provide loans guaranteed by ~~((the WSLGA))~~ NELA.

(5) "Needy student" shall mean any post high school student who demonstrates the financial inability to meet the cost of attending college using current federal methodology (RCW 28B.10.802).

(6) "Other institutional financial aid" shall be defined as locally administered, need-based institutional employment, tuition and fee scholarships, or grants.

NEW SECTION

WAC 131-36-055 Use of fund. Moneys in this fund shall be used for student financial aid:

- (1) Long-term loans;
- (2) Short-term loans; and
- (3) Locally administered need-based grants, tuition scholarships and institutional employment programs for needy, resident students. The moneys in this fund shall not be used for college operating expenses.

AMENDATORY SECTION (Amending Order 90, Resolution 81-66, filed 9/23/81)

WAC 131-36-100 Eligibility. (1) ~~((Loans from the fund shall be))~~ Long-term loans and other institutional financial aid to needy students shall be made only to ~~((resident, needy))~~ students who ~~((are enrolled for six or more credit hours of instruction or the equivalent thereof, except as otherwise provided in this section))~~ qualify as residents under RCW 28B.15.012 and 28B.15.013 and are enrolled for six or more credit hours of instruction or the equivalent.

(2) ~~((The following individuals who have been granted statutory resident status for tuition and fee purposes pursuant to RCW 28B.15.014 and 28B.15.553 shall not be eligible to receive loans from the fund:~~

- ~~(a) Persons employed twenty hours or more per week at a Washington public higher education institution and their children and spouses;~~
- ~~(b) Military and federal employees residing or stationed in the state of Washington and their children or spouses;~~
- ~~(c) Veterans, as defined by RCW 41.04.005, whose final permanent duty station was in the state of Washington, so long as such veteran is receiving federal vocational or educational benefits concurred by virtue of his or her military service;~~
- ~~(d) Nonimmigrant aliens residing in the state of Washington pursuant to a treaty of commerce and navigation and their children and spouses.~~

~~(3) No individual shall be eligible for a loan from the fund unless he or she shall have applied for and been unable to obtain an educational loan from at least one private financial institution in the state of Washington known to be granting or with a record of having granted such loans.~~

~~(4) Students seeking loans from the fund shall provide the college with either a letter of denial from a private financial institution or with an affidavit attesting to such denial if unable to obtain evidence of denial in writing.~~

~~(5) No individual shall be eligible for loans from the fund if currently in default on any WSLGA or other federally guaranteed loan.)~~ Priorities for use of other institutional financial aid shall be given to:

- (a) Needy students who have accumulated excessive educational loan burdens;
- (b) Needy single parents for educational expenses, including child care and transportation; and
- (c) Other eligible needy students.
- (3) Short-term loans may be made to any student enrolled in the institution.
- (4) For long-term and short-term loans, institutions must have ample evidence that students have the capability of repaying the loan within the time frame specified by the institution.

(5) No individual shall be eligible for long-term loans, short-term loans or other institutional financial aid for needy students if currently in default or delinquent in the payment on any educational loan or who owes a repayment on any federal or state grant.

AMENDATORY SECTION (Amending Order 90, Resolution 81-66, filed 9/23/81)

WAC 131-36-150 Limitation on amount ~~((of loans))~~. (1) No long-term or short-term loan~~((s))~~ shall be made from the fund ~~((in an amount))~~ that exceeds either the demonstrated financial need of an eligible student or the maximum allowed under the federal guaranteed need-based loan program.

(2) All long-term loans granted from the fund for periods in excess of one academic quarter shall be disbursed in quarterly installments through proration of the total loan amount.

(3) For purposes of this section, demonstrated financial need shall be the amount determined by application of uniform methodology as defined by WAC 131-36-050(3).

AMENDATORY SECTION (Amending Order 90, Resolution 81-66, filed 9/23/81)

WAC 131-36-200 Terms and conditions of loans. (1) The terms and conditions of long-term loans made from the fund, including, but not limited to, maximum annual loan amount, maximum aggregate loan amount, loan initiation fee, guarantee fee, repayment, cancellation, consolidation of loans, deferment, default, and forbearance shall be the same as those set forth by the ~~((WSLGA and))~~ federal need-based guaranteed student loan regulations.

(2) All long-term loans granted from the fund for periods in excess of one academic quarter shall be disbursed in quarterly installments through proration of the total loan amount.

(3) For short-term loans only, students must repay in one year.

AMENDATORY SECTION (Amending Order 90, Resolution 81-66, filed 9/23/81)

WAC 131-36-250 Initiating, servicing, and collecting loans. (1) Community colleges shall utilize the loan collecting and servicing agency designated by the state ~~((board))~~

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director for community and technical colleges (~~(education)~~) and the (~~(WSLGA)~~) NELA.

(2) The state director of community and technical colleges shall determine and designate on behalf of the state board an appropriate entity to conduct servicing and collection activities with regard to loans made from the fund.

(3) The state director of community and technical colleges shall, when (s)he determines that it is in the best interest of the college system, determine and designate on behalf of the state board an appropriate entity to perform loan initiation activities and transaction reporting regarding loans made from the fund.

(4) Subsequent to granting loans from the fund each college shall cooperate with the (~~(WSLGA)~~) NELA and the servicing and collection agency through informing students of their rights and responsibilities regarding such loans; timely provision of student status verification information and information pertaining to determinations of default, forbearance, and deferment of loans; consolidation of loans; and records maintenance.

AMENDATORY SECTION (Amending Order 90, Resolution 81-66, filed 9/23/81)

WAC 131-36-300 Investment of fund principal. (1) Moneys in the fund not committed to long-term loans may be invested by each college (~~(for periods of time not inconsistent with the efficient operation of the loan program, provided that such investments may be made only after all eligible students have been afforded a reasonable opportunity to apply for loans from the fund.~~).

(2) ~~Investment of moneys from the fund shall be confined to certificates, notes, or bonds of the United States or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States).~~

(~~(3)~~) (2) Colleges shall comply with all (~~(other)~~) laws or regulations regarding the investment of state funds (~~(when investing uncommitted portions of the fund)~~).

(~~(4)~~) (3) Interest earned through such investments shall be credited to the fund.

WSR 98-15-018

PERMANENT RULES

HEALTH CARE AUTHORITY

(Basic Health Plan)

[Filed July 6, 1998, 9:44 a.m.]

Date of Adoption: July 6, 1998.

Purpose: Updates Basic Health Plan definition of income to reflect recent legislative changes.

Citation of Existing Rules Affected by this Order: Amending WAC 182-25-010(17).

Statutory Authority for Adoption: RCW 70.47.050, 70.47.060(9).

Other Authority: SHB 2556.

Adopted under notice filed as WSR 98-10-086 on May 5, 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 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 6, 1998

Elin Meyer

Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-07-002, filed 3/5/98, effective 4/5/98)

WAC 182-25-010 Definitions. The following definitions apply throughout these rules.

(1) "Administrator" means the administrator of the Washington state health care authority (HCA) or designee.

(2) "Appeal procedure" means a formal written procedure for resolution of problems or concerns raised by enrollees which cannot be resolved in an informal manner to the enrollee's satisfaction.

(3) "Basic health plan" (or BHP) means the system of enrollment and payment on a prepaid capitated basis for basic health care services administered by the administrator through managed health care systems.

(4) "BHP plus" means the program of expanded benefits available to children through coordination between the department of social and health services (DSHS) and basic health plan. Eligibility for BHP Plus is determined by the department of social and health services, based on Medicaid eligibility criteria. To be eligible for the program children must be under age nineteen, with a family income at or below two hundred percent of federal poverty level, as defined by the United States Department of Health and Human Services. They must be Washington state residents, not eligible for Medicare, and may be required to meet additional DSHS eligibility requirements.

(5) "Co-payment" means a payment indicated in the schedule of benefits which is made by an enrollee to a health care provider or to the MHCS.

(6) "Covered services" means those services and benefits in the BHP schedule of benefits (as outlined in the member handbook issued to the enrollee, or to a subscriber on behalf of the enrollee), which an enrollee shall be entitled to receive from a managed health care system in exchange for payment of premium and applicable co-payments.

(7) "Disenrollment" means the termination of covered services in BHP for a subscriber and dependents, if any.

(8) "Effective date of enrollment" means the first date, as established by BHP, on which an enrollee is entitled to receive covered services from the enrollee's respective managed health care system.

(9) "Dependent" means:

(a) The subscriber's lawful spouse, not legally separated, who resides with the subscriber; or

(b) The unmarried child of the subscriber or the subscriber's dependent spouse, whether by birth, adoption, legal guardianship, or placement pending adoption, who is:

(i) Younger than age nineteen, and who has not been relinquished for adoption by the subscriber or the subscriber's dependent spouse; or

(ii) Younger than age twenty-three, and a registered student at an accredited secondary school, college, university, technical college, or school of nursing, attending full time, other than during holidays, summer and scheduled breaks; or

(c) A person of any age who is under legal guardianship of the subscriber or the subscriber's dependent spouse, and who is incapable of self-support due to disability.

(10) "Eligible full-time employee" means an employee who meets all eligibility requirements in WAC 182-25-030 and who is regularly scheduled to work thirty or more hours per week for an employer. The term includes a self-employed individual (including a sole proprietor or a partner of a partnership, and may include an independent contractor) if the individual:

(a) Is regularly scheduled to work thirty hours or more per week; and

(b) Derives at least seventy-five percent of his or her income from a trade or business that is licensed to do business in Washington.

Persons covered under a health benefit plan pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1986 shall not be considered eligible employees for purposes of minimum participation requirements.

(11) "Eligible part-time employee" means an employee who meets all the criteria in subsection (10) of this section, but who is regularly scheduled to work fewer than thirty hours per week for an employer.

(12) "Employee" means one who is in the employment of an employer, as defined by RCW 50.04.080.

(13) "Employer" means an enterprise licensed to do business in Washington state, as defined by RCW 50.04.080, with employees in addition to the employer, whose wages or salaries are paid by the employer.

(14) "Enrollee" means a person who meets all eligibility requirements, who is enrolled in BHP, and for whom applicable premium payments have been made.

(15) "Family" means an individual or an individual and spouse, if not legally separated, and dependents. For purposes of eligibility determination and enrollment in the plan, an individual cannot be a member of more than one family.

(16) "Financial sponsor" means a person, organization or other entity, approved by the administrator, that is responsible for payment of all or a designated portion of the monthly premiums on behalf of a subscriber and any dependents.

(17) "Gross family income" means total cash receipts, as defined in (a) of this subsection, before taxes, from all sources, for subscriber and dependents whether or not they

are enrolled in BHP, with the exceptions noted in (b) of this subsection.

(a) Income includes:

(i) Money wages, tips and salaries before any deductions;

(ii) Net receipts from nonfarm self-employment (receipts from a person's own unincorporated business, professional enterprise, or partnership, after deductions for business expenses);

(iii) Net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or sharecropper, after deductions for farm operating expenses);

(iv) Regular payments from Social Security, railroad retirement, unemployment compensation, strike benefits from union funds, workers' compensation, veterans' payments, public assistance, alimony, child support, military family allotments, private pensions, government employee pensions (including military retirement pay), and regular insurance or annuity payments;

(v) Work study or training stipends;

(vi) Dividends and interest accessible to the enrollee without a penalty;

(vii) Net rental income, net royalties, periodic receipts from estates or trusts, and net gambling or lottery winnings.

(b) Income does not include the following types of money received:

(i) Capital gains;

(ii) Any assets drawn down as withdrawals from a bank, the sale of property, a house or a car;

(iii) Tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury (except workers' compensation);

(iv) Noncash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits, food or housing received in lieu of wages, the value of food and fuel produced and consumed on farms, the imputed value of rent from owner-occupied nonfarm or farm housing, and such noncash benefit programs as Medicare, Medicaid, food stamps, school lunches, and housing assistance;

(v) Income earned by dependent children;

(vi) Income of a family member who resides in another household when such income is not available to the subscriber or dependents seeking enrollment in BHP;

(vii) College or university scholarships, grants, fellowships and assistantships;

(viii) Payments from the department of social and health services adoption support program authorized under RCW 26.33.320 and 74.13.100 through 74.13.145;

(ix) Documented child care expenses for the care of a dependent child of a subscriber may be deducted (at a rate set by the administrator and consistent with Internal Revenue Service requirements) when calculating gross family income. To qualify for this deduction, the subscriber must be employed during the time the child care expenses were paid, and payment may not be paid to a parent or step parent of the child or to a dependent child of the subscriber or his/her spouse.

(18) "Home care agency" means a private or public agency or organization that administers or provides home

care services directly or through a contract arrangement to ill, disabled, or infirm persons in places of temporary or permanent residence, and is licensed by the department of social and health services (DSHS) as a home care agency. In order to qualify, the agency must be under contract with one of the following DSHS programs: Chore, Medicaid Personal Care, Community Options Program Entry System (COPEs) or Respite Care (up to level three).

(19) "Institution" means a federal, state, county, city or other government correctional or detention facility or government-funded facility where health care historically has been provided and funded through the budget of the operating agency, and includes, but is not limited to: Washington state department of corrections institutions; federal, county and municipal government jail and detention institutions; Washington state department of veterans affairs soldiers' and veterans' homes; department of social and health services state hospitals and facilities and juvenile rehabilitation institutions and group homes. An institution does not include: Educational institutions; government-funded acute health care or mental health facilities except as provided above; chemical dependency facilities; and nursing homes.

(20) "Institutionalized" means to be confined, voluntarily or involuntarily, by court order or health status, in an institution, as defined in subsection (19) of this section. This does not include persons on work release or who are residents of higher education institutions, acute health care facilities, alcohol and chemical dependency facilities, or nursing homes.

(21) "Insurance broker" or "agent" means a person who is currently licensed as a disability insurance broker or agent, according to the laws administered by the office of the insurance commissioner under chapter 48.17 RCW.

(22) "Managed health care system" (or "MHCS") means any health care organization (including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof) which has entered into a contract with the HCA to provide basic health care services.

(23) "Maternity benefits through medical assistance," also known as S-Medical, means the coordinated program between BHP and DSHS for eligible pregnant women. This program includes all Medicaid benefits, including maternity coverage. Eligible members must be at or below one hundred eighty-five percent of the federal poverty level. Eligibility for this program is determined by DSHS, based on Medicaid eligibility criteria.

(24) "Medicaid" means the Title XIX Medicaid program administered by the department of social and health services, and includes the medical care programs provided to the "categorically needy" and the "medically needy" as defined in chapter 388-503 WAC.

(25) "Medicare" means programs established by Title XVIII of Public Law 89-97, as amended, "Health Insurance for the Aged and Disabled."

(26) "Nonsubsidized enrollee" or "full premium enrollee" means an individual who enrolls in BHP, as the subscriber or dependent, and who pays or on whose behalf is paid the full costs for participation in BHP, without subsidy from the HCA.

(27) "Open enrollment" means a time period designated by the administrator during which enrollees may enroll additional dependents or apply to transfer their enrollment from one managed health care system to another. There shall be at least one annual open enrollment period of at least twenty consecutive days.

(28) "Participating employee" means an employee of a participating employer or home care agency who has met all the eligibility requirements and has been enrolled for coverage under BHP.

(29) "Participating employer" means an employer who has been approved for enrollment in BHP as an employer group.

(30) "Preexisting condition" means any illness, injury or condition for which, in the three months immediately preceding an enrollee's effective date of enrollment in BHP:

(a) Treatment, consultation or a diagnostic test was recommended for or received by the enrollee; or

(b) The enrollee was prescribed or recommended medication; or

(c) Symptoms existed which would ordinarily cause a reasonably prudent individual to seek medical diagnosis, care or treatment.

(31) "Premium" means a periodic payment, based upon gross family income and determined under RCW 70.47.060(2), which an individual, their employer or a financial sponsor makes to BHP for subsidized or nonsubsidized enrollment in BHP.

(32) "Provider" or "health care provider" means a health care professional or institution duly licensed and accredited to provide covered services in the state of Washington.

(33) "Rate" means the per capita amount, including administrative charges and any applicable premium and prepayment tax imposed under RCW 48.14.020, negotiated by the administrator with and paid to a managed health care system, to provide BHP health care benefits to enrollees.

(34) "Schedule of benefits" means the basic health care services adopted and from time to time amended by the administrator, which an enrollee shall be entitled to receive from a managed health care system in exchange for payment of premium and applicable co-payments, as described in the member handbook.

(35) "Service area" means the geographic area served by a managed health care system as defined in its contract with HCA.

(36) "Subscriber" is a person who applies to BHP on his/her own behalf and/or on behalf of his/her dependents, if any, who meets all applicable eligibility requirements, is enrolled in BHP, and for whom the monthly premium has been paid. Notices to a subscriber and, if applicable, a financial sponsor or employer shall be considered notice to the subscriber and his/her enrolled dependents.

(37) "Subsidized enrollee" or "reduced premium enrollee" means an individual who enrolls in BHP, either as the subscriber or an eligible dependent, whose current gross family income does not exceed twice the federal poverty level as adjusted for family size and determined annually by the federal Department of Health and Human Services, and who receives a premium subsidy from the HCA.

(38) "Subsidy" means the difference between the amount of periodic payment the HCA makes to a managed health care system on behalf of a subsidized enrollee, and the amount determined to be the subsidized enrollee's responsibility under RCW 70.47.060(2).

WSR 98-15-026
PERMANENT RULES
DEPARTMENT OF AGRICULTURE

[Filed July 7, 1998, 10:45 a.m.]

Date of Adoption: July 7, 1998.

Purpose: Allow the purchase and use of Strychnine pesticide products by licensed and trained applicators only. Require recordkeeping on sales of product by dealers.

Citation of Existing Rules Affected by this Order: Amending WAC 16-228-155 (1)(g).

Statutory Authority for Adoption: RCW 15.58.040 (2)(h).

Adopted under notice filed as WSR 98-10-069 on May 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 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.

July 7, 1998

Jim Jesernig
Director

AMENDATORY SECTION (Amending Order 2022, filed 11/30/89, effective 12/31/89)

WAC 16-228-155 Pesticides—Not for distribution to home and garden users. (1) The following pesticides are hereby declared to be restricted use pesticides in the state of Washington because of their toxicity to people and animals and shall not be distributed to home and garden users. The following pesticides shall be registered only when manufactured, labeled, delivered, distributed, sold, or held for sale for use by commercial producers and/or commercial applicators or governmental agencies experienced in the application of pesticides:

- (a) DiNitro-O-Sec Butyl Phenol (DNOSBP)
- (b) Endothall (20% and above)
- (c) Ethion (26% and above)

- (d) Guthion (16% and above)
- (e) Hydrogen Cyanide (Hydrocyanic acid) (HCN)
- (f) Methyl Bromide
- (g) Strychnine and its salts (~~(((Strychnine Alkaloid 1-1% and above)))~~)

(2) Pesticide dealers shall keep records on the sale of any of the above listed pesticides. These records shall contain the date of sale, the name and amount of the pesticide sold and the name and address of the purchaser. These records shall be kept on file for a period of seven years and the director shall have access to these records upon request.

WSR 98-15-027
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed July 7, 1998, 11:15 a.m.]

Date of Adoption: June 17, 1998.

Purpose: The purpose of the amendments is to clarify the language.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-420 and 180-79A-422.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 98-10-102 on May 6, 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 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 1, 1998

Larry Davis
Executive Director

AMENDATORY SECTION (Amending WSR 97-04-088, filed 2/5/97, effective 3/8/97)

WAC 180-79A-420 Academic requirements for certification—Administrators. Candidates for the respective administrative certificate shall complete the following requirements in addition to those set forth in WAC 180-79A-150 and 180-79A-424.

- (1) Superintendent.
- (a) Initial.

(i) The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree

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at least forty-five quarter hours (thirty semester hours) of graduate level course work in education.

(ii) The candidate must meet requirements for a superintendent's certificate pursuant to WAC 180-79A-150(4).

(b) Continuing.

(i) The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least sixty quarter hours (forty semester hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) The candidate must meet requirements for a superintendent's certificate pursuant to WAC 180-79A-150(4).

(2) Principal.

(a) Initial.

The candidate shall hold a master's degree and have completed an approved program for the preparation of principals.

(b) Continuing.

(i) The candidate who applies prior to August 31, 1998, shall hold an approved master's degree and completed subsequent to the baccalaureate degree at least forty-five hours (thirty semester hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) The candidate who applies on or after August 31, 1998, shall have completed ~~((a program based on the state principal performance domains included in WAC 180-78A-257. Such program shall consist of))~~ at least fifteen quarter (ten semester) ~~((hours))~~ credits of graduate ~~((post-initial))~~ course work offered by a college or university with a state approved principal program or one hundred fifty clock hours of study, which meet the state continuing education clock hour criteria, ~~((as determined in consultation with and approved by the employer))~~ or a combination of credits and clock hours equivalent to the above. Such study shall:

(A) Be based on the principal performance domains included in WAC 180-78A-165;

(B) Be taken subsequent to the issuance of the initial principal's certificate; and

(C) Be determined in consultation with and approved by the candidate's employer or the administrator of a state approved principal preparation program.

(iii) The candidate must meet requirements for a principal's certificate pursuant to WAC 180-79A-150(4).

(3) Program administrator.

(a) Initial.

The candidate shall hold an approved master's degree, a master's degree required for an educational staff associate certificate, a master's degree in school nursing, occupational therapy or physical therapy, or a master's degree in public education, or business administration and have completed subsequent to the baccalaureate degree at least twenty-four quarter hours (sixteen semester hours) of graduate level course work in education.

(b) Continuing.

The candidate shall hold an approved master's degree, a master's degree required for an educational staff associate certificate, a master's degree in school nursing, occupational therapy, physical therapy, or a master's degree in public education, or business administration and have completed subsequent to the baccalaureate degree at least thirty quarter hours

(twenty semester hours) of graduate level course work in education or shall hold a doctorate in education.

AMENDATORY SECTION (Amending WSR 97-04-088, filed 2/5/97, effective 3/8/97)

WAC 180-79A-422 Experience requirement for initial ((endorsement)) certificate—Principals. In addition to the academic requirements specified in WAC 180-79A-420(2), candidates applying for initial ~~((administrator's))~~ principal's certificates ((with a principal's endorsement)) who were admitted to a principal preparation program prior to August 31, 1998, as a condition for the issuance of such endorsement, shall present documentation of one hundred eighty days or full-time equivalent or more teaching experience with an authorized employer—i.e., school district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer. Candidates applying for the initial principal's certificate who were admitted to a principal preparation program on or after August 31, 1998, shall present documentation of five hundred forty days (three school years) of full-time or more teaching in a public or private school system. No more than sixty days substitute or equivalent teaching experience may be included for this requirement.

WSR 98-15-028

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed July 7, 1998, 11:17 a.m.]

Date of Adoption: June 17, 1998.

Purpose: The amendments align the thirty clock hour course required for certain educational staff associate roles with the state goals and essential academic learning requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-433.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 98-10-103 on May 6, 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 1, Repealed 0.

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Effective Date of Rule: Thirty-one days after filing.

July 1, 1998

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 98-01-027, filed 12/8/97, effective 1/8/98)

WAC 180-79A-433 Academic requirements for certification—School nurse, school occupational therapist, school physical therapist and school speech-language pathologist or audiologist. Candidates for school nurse, school occupational therapist, school physical therapist and school speech-language pathologist or audiologist certification shall apply directly to the professional education and certification office. Such candidates shall complete the following requirements, in addition to those set forth in WAC 180-79A-150, except state approved college/university professional preparation program:

(1) School nurse.

(a) Initial.

(i) The candidate shall hold a valid license as a registered nurse (RN) in Washington state.

(ii) The candidate shall hold a baccalaureate degree in nursing from a National League of Nursing accredited program.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the state board of education which will include schools and society; human growth, development, and learning; American school law; legal responsibilities of the ESA; and the responsibilities of the specific ESA role in a school setting including the state learning goals and essential academic learning requirements: *Provided*, That an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing. The candidate shall have completed the requirements for the initial certificate as a school nurse and have completed forty-five quarter hours (thirty semester hours) of post-baccalaureate course work in education, nursing, or other health sciences.

(2) School occupational therapist.

(a) Initial.

(i) The candidate shall hold a valid license as an occupational therapist in Washington state.

(ii) The candidate shall hold a baccalaureate (or higher) degree from an American Occupational Therapy Association approved program in occupational therapy.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the state board of education which will include schools and society; human growth, development, and learning; American school law; legal responsibilities of the ESA; and the responsibilities of the specific ESA role in a school setting including the state learning goals and essential academic learning requirements: *Provided*, That an

individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing. The candidate shall have completed the requirements for the initial certificate as a school occupational therapist and have completed at least fifteen quarter hours (ten semester hours) of course work beyond the baccalaureate degree in occupational therapy, other health sciences or education.

(3) School physical therapist.

(a) Initial.

(i) The candidate shall hold a valid license as a physical therapist in Washington state.

(ii) The candidate shall hold a baccalaureate (or higher) degree from an American Physical Therapy Association accredited program in physical therapy.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the state board of education which will include schools and society; human growth, development, and learning; American school law; legal responsibilities of the ESA; and the responsibilities of the specific ESA role in a school setting including the state learning goals and essential academic learning requirements: *Provided*, That an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing. The candidate shall have completed the requirements for the initial certificate as a school physical therapist and have completed fifteen quarter hours (ten semester hours) of course work beyond the baccalaureate degree in physical therapy, other health sciences or education.

(4) School speech-language pathologist or audiologist.

(a) Initial.

(i) The candidate shall have completed all course work (except special project or thesis) for a master's degree from a college or university program accredited by the American Speech and Hearing Association (ASHA) with a major in speech pathology or audiology. Such program shall include satisfactory completion of a written comprehensive examination: *Provided*, That if any candidate has not completed a written comprehensive examination, the candidate may present verification from ASHA of a passing score on the National Teacher's Examination in speech pathology or audiology as a condition for certification.

(ii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the state board of education which will include schools and society; human growth, development, and learning; American school law; legal responsibilities of the ESA; and the responsibilities of the specific ESA role in a school setting including the state learning goals and essential academic learning requirements: *Provided*, That an

individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing. The candidate shall hold a master's degree with a major in speech pathology or audiology.

WSR 98-15-031
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 98-120—Filed July 7, 1998, 3:25 p.m.]

Date of Adoption: June 13, 1998.

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.

Citation of Existing Rules Affected by this Order: Amending WAC 220-20-010, 220-20-015, 220-20-020, and 220-20-025; and new sections WAC 220-16-480 and 220-16-490.

Statutory Authority for Adoption: RCW 75.08.080.

Adopted under notice filed as WSR 98-09-089 on April 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 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.

Larry W. Peck
 for Bern Shanks
 Director

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 spe-

cies, 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.

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(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 deter-

mined 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 provided 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 Walan Point 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.

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.

WSR 98-15-032

PERMANENT RULES

DEPARTMENT OF FISH AND WILDLIFE

[Order 98-119—Filed July 7, 1998, 3:29 p.m.]

Date of Adoption: June 13, 1998.

Purpose: To modify minimum size limit for lingcod from 22 inches to 24 inches in catch areas 1 through 4 and remove redundant language from rule text.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-235.

Statutory Authority for Adoption: RCW 75.08.080.

Adopted under notice filed as WSR 98-09-086 on April 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 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.

July 7, 1998

Larry W. Peck
for Bern Shanks
Director

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 following 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) Wolf-eel - 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:

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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 98-15-033
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 98-121—Filed July 7, 1998, 3:42 p.m.]

Date of Adoption: June 20, 1998.

Purpose: Amend coastal bottomfish catch limits.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-44-050.

Statutory Authority for Adoption: RCW 75.08.080.

Adopted under notice filed as WSR 98-09-080 on April 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 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.

July 7, 1998

Larry W. Peck
for Bern Shanks
Director

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

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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 (*Sebastes 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) Non-trawl 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 non-trawl 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 ~~((48))~~ 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.

Purpose: To codify into WAC existing policies regarding interpreter services for limited-English proficient, deaf, blind, and hard of hearing clients.

Statutory Authority for Adoption: RCW 74.04.050, 74.08.090.

Other Authority: RCW 74.04.025, 45 CFR Sec. 80.1 and 80.03; 45 CFR Sec. 605.52; 28 CFR, part 35.

Adopted under notice filed as WSR 98-10-107 on May 6, 1998.

Changes Other than Editing from Proposed to Adopted Version: A definition of "client" was added to WAC 388-555-1000 for clarification purposes.

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 9, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 9, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 9, Amended 0, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The earlier effective date of July 10, 1998, is necessary because the emergency rule expires on July 11, 1998. Without a rule in place, the department's ability to continue to provide interpreter services to MAA clients would be jeopardized and, therefore, would imperil the health and welfare of the public, per RCW 34.05.380 (3)(c). With limited funding, MAA must codify its policies to assure funds for the program do not run out.

Effective Date of Rule: July 10, 1998.

July 10, 1998

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

Chapter 388-555 WAC

INTERPRETER SERVICES

NEW SECTION

WAC 388-555-1000 Definitions. For the purposes of this chapter, the following definitions apply:

"**Client**" means any individual who has been determined eligible for medical or health care services for any of the medical assistance administration (MAA) programs.

"**Consecutive appointments**" means appointments beginning or scheduled to begin within fifteen minutes of the last completed appointment.

"**Family member**" means any person who is related to the client: a spouse, child, grandmother, grandfather, grand-

WSR 98-15-054

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed July 10, 1998, 9:28 a.m., effective July 10, 1998]

Date of Adoption: July 10, 1998.

child, mother, father, sister, brother, cousin, niece, nephew, aunt, uncle, step relations and/or in-laws.

"Federally qualified health center" (FQHC) means:

(1) A facility that is receiving grants under section 329, 330, or 340 of the Public Health Services Act; or

(2) Receiving such grants based on the recommendation of the Health Resources and Services Administration within the Public Health Service as determined by the secretary to meet the requirements for receiving such a grant; or

(3) A tribe or tribal organization operating outpatient health programs or facilities under the Indian Self Determination Act (P.L. 93-638). Only Health Care Financing Administration-designated FQHCs will be allowed to participate in MAA's Medicaid program.

"Independent interpreter" means any fluent, bilingual/multilingual person, certified by language interpretation services and translation (LIST) in medical terminology, who provides interpreter services for payment and who is not employed by, or a contractor of, any interpreter agency enrolled with MAA. Independent interpreter also means any person fluent in American Sign Language, certified by the National Association for the Deaf (NAD) or Registry for Interpreters for the Deaf (RID).

"Interpreter" means a person who speaks English and another language fluently or signs American Sign Language fluently. Fluency includes an understanding of nonverbal and cultural patterns necessary to communicate effectively. An interpreter enables clients and medical/health care providers to communicate effectively with each other.

"Interpreter agency" means a business entity, organized under and permitted to operate by the laws of the state of Washington, which offers as one of its main objectives or purposes to procure interpreter services by employing or contracting with bilingual/multilingual persons on a permanent or part-time basis to provide medical interpreter services for payment to MAA clients. For purposes of this chapter, interpreter agency does not include:

(1) A business entity that employs a person exclusively or regularly to perform other duties, or to perform interpreter services solely in connection with the affairs of that employer; or

(2) A person who is self-employed and is the only bilingual/multilingual employee contracting for the purpose of providing interpreter services to others.

"Language interpretation services and translation" (LIST) means the section within the department of social and health services (DSHS) that is responsible for certifying and qualifying spoken language interpreters.

"Limited English proficient (LEP)" means a limited ability or an inability to speak, read, or write English well enough to understand and communicate effectively in normal daily activities. The client decides whether he/she is limited in his/her ability to speak, read, or write English.

"Primary language" means the language identified by the client as the language in which he/she wishes to communicate. This may also be referred to as the preferred language.

"Qualified interpreter for American Sign Language" means a certified NAD, RID, or noncertified interpreter who is determined to be competent, both receptively and expressively by the consumer to be qualified to effectively meet

his/her communication needs, both receptively and expressively.

"Qualified interpreter for spoken languages" means an interpreter who has passed DSHS screening tests in languages other than the DSHS certificated languages as specified in RCW 74.04.025.

"Unit" means a billable amount of time for interpreter services equal to fifteen minutes.

NEW SECTION

WAC 388-555-1050 Covered services. Interpreters and/or interpreter agencies shall receive payment for interpreter services that are:

(1) Provided for a client who is:

- (a) Deaf;
- (b) Deaf-blind;
- (c) Hard of hearing; or
- (d) Limited English proficient.

(2) Provided during a necessary medical service performed by an eligible provider; and

(3) Covered under a MAA program for which the client is eligible. For exceptions, see WAC 388-555-1100, Noncovered services.

NEW SECTION

WAC 388-555-1100 Noncovered services. Interpreters and/or interpreter agencies shall not receive payment from MAA for interpreter services related to:

- (1) Inpatient hospital services;
- (2) Nursing facility services;
- (3) Community mental health center services;
- (4) The provision of any noncovered service;
- (5) Interpreter services funded or paid for by any other source;
- (6) Interpreter services provided by an interpreter to the interpreter's own family members;
- (7) Any person other than an eligible MAA client;
- (8) Medical assistance client no-shows;
- (9) The interpreter's failure to appear for scheduled services;
- (10) The interpreter's transportation costs or travel time;
- (11) Waiting time before the scheduled appointment; or
- (12) Any block of time when interpreter services are not required by the medical provider to communicate with a medical assistance client.

NEW SECTION

WAC 388-555-1150 Eligible providers. (1) To provide services other than at FQHCs, independent interpreters and/or interpreter agencies are considered eligible providers when they:

- (a) Are enrolled with MAA to provide interpreter services;
- (b) Meet the criteria in WAC 388-87-007, Medical provider agreement, and WAC 388-87-010, Conditions of payment—General.

(2) To enroll as an independent interpreter for MAA clients, interpreters shall submit the following to the department:

- (a) Proof of certification which may be either:
 - (i) Number and date of medical certificate from LIST; or
 - (ii) A copy of a RID or NAD certificate for certified sign language interpreters.

(b) A Social Security Number, if the interpreter has one;

(c) A completed interpreter services core provider agreement;

- (d) A signed confidentiality pledge;
- (e) A completed provider information form; and
- (f) Verification of errors and omissions liability insurance at or over one hundred thousand dollars per occurrence.

(3) To enroll with MAA as an interpreter agency, the agency shall submit to the department:

(a) A completed interpreter services core provider agreement;

(b) Verification of errors and omissions liability insurance at or over one million dollars per occurrence;

(c) A completed provider information form; and

(d) A list of interpreters employed/contracted to provide services to MAA clients, including the following information for each interpreter:

- (i) A signed confidentiality pledge; and
 - (ii) Number and date of medical certificate from LIST;
- or

(iii) A copy of a current RID or NAD certificate for certified sign language interpreters or written description of evaluation process for qualified interpreter status.

(4) To qualify as an eligible provider, an interpreter agency shall have the capacity to provide interpreter services in:

- (a) American Sign Language; or
- (b) At least three spoken languages; or
- (c) Fewer than three spoken languages if the languages provided are reflective of a majority of the LEP clients residing within the county(ies) served by the agency. DSHS reports will be used to identify the languages needed in the demographic area.

NEW SECTION

WAC 388-555-1200 Provider requirements. (1) An interpreter or interpreter agency shall not determine the need for interpreter services, nor shall the interpreter market interpreter services to MAA clients. See WAC 388-555-1250, Coordination of services.

(2) An interpreter or interpreter agency shall not require a client to obtain interpreter services exclusive of other interpreters or interpreter agencies.

(3) An interpreter or interpreter agency shall adhere to department policies and procedures regarding confidentiality of client records as stated in WAC 388-501-0150.

(4) An independent interpreter shall enroll with the department as provided in WAC 388-555-1100 and obtain a current medical assistance provider number.

(5) An interpreter or interpreter agency must participate in an orientation which will be scheduled and given by MAA within their first year of contracting with the department. The

department may terminate contracts with any provider who does not participate in the orientation.

(6) Interpreter agencies shall assume full legal and financial liability for interpreter services provided by employees and contractors.

NEW SECTION

WAC 388-555-1250 Coordination of services. An interpreter and/or interpreter agency shall:

(1) Coordinate appointment dates and times with the medical provider and the client as requested by the medical provider; and

(2) Notify the medical provider of any changes to scheduled appointments at least twenty-four hours in advance.

NEW SECTION

WAC 388-555-1300 Payment. (1) Eligible interpreters and/or interpreter agencies shall only provide services when the following conditions are met:

(a) The client or the medical provider determines that an interpreter is necessary in order for the client to appropriately access necessary medical and health care services covered by the client's medical assistance program;

(b) The medical provider has informed the client that interpreter services are available at no cost to the client; and

(c) The interpreter presents a current identification card with his/her name, such as a driver's license, prior to providing interpreter services.

(2) To the extent permitted under federal law and regulation, the department may provide federal financial participation to match funds expended by public agencies for interpreter services.

NEW SECTION

WAC 388-555-1350 Payment methodology. (1) An interpreter and/or interpreter agency providing services at facilities other than FQHCs shall receive payment for interpreter services based on:

(a) Funds legislatively provided for interpreter services;

(b) Department allocation of vendor rate increases appropriated by the legislature;

(c) Billable units of time; and

(d) Submitting claims to the department according to billing instructions provided by MAA. All eligible interpreters will be provided with billing instructions.

(2) An interpreter and/or interpreter agency providing services at an FQHC shall seek payment according to WAC 388-55-1450.

NEW SECTION

WAC 388-555-1400 Recordkeeping and audits. Interpreters and/or interpreter agencies shall maintain legible, accurate, and complete records in order to support and justify interpretation services provided to medical assistance clients. The types of records that must be maintained are described in the billing instructions.

NEW SECTION

WAC 388-555-1450 Services at federally qualified health clinics. (1) A federally qualified health center shall receive payment for interpreter services when the FQHC:

- (a) Uses interpreters certified or qualified by LIST; and
- (b) Bills MAA fee-for-service.

(2) Interpreters providing services at an FQHC shall:

- (a) Be certified and qualified by LIST; and
- (b) Meet the requirements described in WAC 388-555-1200 (1), (2) and (3), and 388-555-1250; and
- (c) Seek payment from the FQHC.

WSR 98-15-066**PERMANENT RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed July 13, 1998, 1:35 p.m., effective July 30, 1998]

Date of Adoption: July 13, 1998.

Purpose: These rules implement state and federal legislation concerning welfare and immigration reform as it impacts eligibility for medical programs. These rules have also been rewritten to meet the intent of the Governor's Executive Order 97-02. Adds a new section WAC 388-510-1005.

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 Balanced Budget Act [of] 1997.

Adopted under notice filed as WSR 98-08-081 on April 1, 1998.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-500-0005, editorial change in the definition of "nursing facility." Added cross-references in the definition of "categorically needy."

WAC 388-503-0310(13), added clarifying language concerning medical extensions.

WAC 388-503-0310(21), added clarifying language concerning a child eligible for SSI on August 22, 1996.

WAC 388-507-0740, added language concerning state family assistance (SFA) and SFA-related persons.

WAC 388-523-2305, added language concerning SFA and SFA-related persons.

These changes from the proposed language to the adopted versions were made based on public comments.

These changes were recommended to reflect intended medical assistance administration policy. Changes other than editorial were necessary to clarify that certain rules apply both to temporary assistance for needy families (TANF) and to state family assistance (SFA).

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 1, Amended 6, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The department is required to implement, and comply with, state and federal welfare legislation by August 1, 1997. These rules have been in effect on an emergency basis which will expire on July 30, 1998.

Effective Date of Rule: July 30, 1998.

July 13, 1998

Marie Mycherin-Redifer, Manager
Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 98-16 issue of the Register.

WSR 98-15-068**PERMANENT RULES****LIQUOR CONTROL BOARD**

[Filed July 13, 1998, 4:06 p.m.]

Date of Adoption: June 17, 1998.

Purpose: This rule clarifies the conditions under which retail liquor licensees (primarily public house licensees) may convert their license to a brewery, microbrewery, or winery license.

Statutory Authority for Adoption: RCW 66.08.030, 66.24.580.

Adopted under notice filed as WSR 98-05-103 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 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 13, 1998

Nathan S. Ford, Jr.
Chairman

NEW SECTION

WAC 314-12-200 Converting a public house license (RCW 66.24.580) to a domestic brewery, microbrewery or domestic winery license. (1) Can a person who holds a public house license (class Q) convert to a domestic brewery, microbrewery or domestic winery license (class B1 or W1)?

Yes, if the licensee has held a public house license for at least six months.

(2) If a person holds several different retail liquor licenses, are those licenses affected by the conversion?

Yes. All other retail liquor licenses must either be converted to a domestic brewery, microbrewery or domestic winery license at the same time or the licensee must discontinue business or divest themselves of all interest in those non-brewery/winery licenses.

For instance, if a licensee holds three public house licenses, two grocery licenses and a tavern license and only wants to convert the three public house licenses to brewery or winery license, they must discontinue business or divest themselves of all interest in the other three businesses or they must convert them to a brewery or winery license as well.

Additionally, if the licensee has held any public house licenses for less than six months, they must discontinue business or divest themselves of all interest in that business as well.

(3) If a person currently holds a restaurant license (class H) in conjunction with their public house license, will the restaurant license be affected?

No. If the restaurant remains on the same or contiguous property as the brewery or winery, the restaurant license will be unaffected.

(4) Is there a waiting period between the closure of the public house business and the opening of the brewery or winery?

No. The licensee does not have to close the existing business before the domestic brewery, microbrewery or domestic winery license can be issued.

Statutory Authority for Adoption: Chapter 90.76 RCW. Adopted under notice filed as WSR 98-10-091 on May 6, 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 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Annual tank fees are effective the day of filing to be consistent with SSB 6130 which increased tank fees on July 1, 1998.

Effective Date of Rule: July 14, 1998.

July 13, 1998

Tom Fitzsimmons
Director

AMENDATORY SECTION (Amending WSR 95-04-102, filed 2/1/95, effective 3/4/95)

WAC 173-360-190 Annual tank fees. ((An annual state tank fee of seventy five dollars per tank shall be paid by every person who owns an underground storage tank which:

(1) Is located in this state;

(2) Was required to be reported to the department under the Federal Underground Storage Tank Program of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Section 6901, et seq.);

(3) Is not permanently closed according to the requirements of this chapter as of the billing date; and

(4) If required, for which corrective action has not been completed in accordance with this chapter.)) (1) An annual tank fee of one hundred dollars per tank is effective from July 1, 1998, to June 30, 1999. Annually, beginning on July 1, 1999, and upon a finding by the department that a fee increase is necessary, the previous tank fee amount may be increased up to the fiscal growth factor for the next year. The fiscal growth factor is calculated by the office of financial management under RCW 43.135.025 for the upcoming biennium. The department shall use the fiscal growth factor to calculate the fee for the next year and shall publish the new fee by March 1st before the year for which the new fee is effective. The new tank fee is effective from July 1st to June 30th of every year. The tank fee shall be paid by every person who:

(a) Owns an underground storage tank located in this state; and

(b) Was required to provide notification to the department under the federal act.

WSR 98-15-069

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 98-08—Filed July 14, 1998, 10:46 a.m., effective July 14, 1998]

Date of Adoption: July 14, 1998.

Purpose: The agency is increasing the annual underground storage tank fee from \$75 to \$100 per tank to fund the underground storage tank program. The rule also allows for a cost of living increase, as needed, due to recent statutory change and consistent with Initiative 601.

Citation of Existing Rules Affected by this Order: Amending WAC 173-360-190.

This fee is not required of persons who have

(i) Permanently closed their tanks; and
(ii) If required, have completed corrective action in accordance with the rules adopted under this chapter.

(2) The department may authorize the imposition of additional annual local tank fees in environmentally sensitive areas designated under RCW 90.76.040. Annual local tank fees may not exceed fifty percent of the annual state tank fee.

(3) State and local tank fees collected under this section shall be deposited in the account established under RCW 90.76.100.

(4) Other than the annual local tank fee authorized for environmentally sensitive areas, no local government may levy an annual tank fee on the ownership or operation of an underground storage tank.

WSR 98-15-073

PERMANENT RULES

GAMBLING COMMISSION

[Order 358—Filed July 15, 1998, 11:25 a.m., effective January 1, 1999]

Date of Adoption: July 10, 1998.

Purpose: Rule changes enable the agency to further streamline the licensing process, increase agency's ability to monitor activities of manufacturers, financiers, and management companies, clarify reporting requirements, allow agency to recover additional fees incurred in the conduct of high level investigations, and increase the agency's ability to assess the accounting of funds raised by nonprofit organizations.

Citation of Existing Rules Affected by this Order: Repealing WAC 230-12-060; and amending WAC 230-04-064, 230-08-122, and 230-30-052.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 98-10-049 on April 29, 1998, with a publication date of May 20, 1998.

Changes Other than Editing from Proposed to Adopted Version: One rule from this package, WAC 230-08-255, was not passed. WAC 230-08-255 was held over for further review by the commissioners.

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 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 3, Repealed 1; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: January 1, 1999.

July 15, 1998

Susan Arland

Public Information Officer

AMENDATORY SECTION (Amending WSR 96-07-075, filed 3/19/96, effective 7/1/96)

WAC 230-04-064 Certification procedure—All licenses—Formal commission approval. The commission shall review and make a determination regarding the qualification of all persons or organizations requesting to operate gambling activities authorized by chapter 9.46 RCW. The following review procedures apply to applicants for a license:

(1) Charitable and nonprofit organizations - To ensure that only bona fide charitable or nonprofit organizations are granted the privilege of raising funds from authorized gambling activities, the commission shall annually review the qualifications of each organization requesting a license to conduct such activities. As a part of this process, each organization shall clearly demonstrate that progress has been made in meeting its purpose(s) by submitting required information and answering such inquiries as deemed necessary by commission staff. The certification process shall be completed as follows:

(a) All organizations requesting to be certified to conduct any gambling activities in Group I, II, or III shall be reviewed by commission staff and forwarded to the commission for review and approval at a public meeting: *Provided*, That for any organization requesting to be certified to conduct gambling activities in Group III, the director may direct the staff to prepare a summary of qualifications, as required by subsection (1)(b) of this section, and provide such to the commission for review;

(b) Any organization requesting to be certified to conduct gambling activities in Group IV or V shall be reviewed by commission staff and a summary of the organization's qualifications shall be prepared and provided to the commission for review and approval. At the request of the director, at least one representative from the organization shall be present at the public meeting at which the summary of their qualification is presented;

(c) In addition, any organization requesting approval or an upgrade to conduct gambling activities in Group V shall be scheduled for formal review as a condition of licensure and periodically thereafter as determined by the director or the commission. The formal review shall be at a scheduled open meeting of the commission and, when possible, held in the general area which encompasses the organization's service area. The review will cover the organization's most recent annual financial report as required by WAC 230-08-122. If an organization desires to submit additional information, it must be submitted at least twenty days prior to the date of its scheduled review. The organization must be represented by at least three members of its board of directors, its chief executive officer, and the primary gambling manager. The organization may solicit testimony from clients, local social and welfare providing agencies, public agencies, and other charitable or nonprofit organizations. The commission may solicit information from the public or any other inter-

ested parties and shall notify local law enforcement agencies of the time and location of the review. The formal review will include a brief session for the organization to inform the commission on the progress made during its previous fiscal year in achieving its purposes, including the extent to which gambling income was used for charitable as opposed to nonprofit services and planned uses for any gambling income remaining from the previous fiscal year;

(d) At the conclusion of the review of qualifications for a charitable or nonprofit organization, the commission will approve the organization requested or:

(i) Require the organization to submit additional information;

(ii) Return the application to the staff for further investigation; or

(iii) ~~((Call for a special review; or~~

~~(iv)))~~ Grant a temporary or conditional license;

(2) Commercial, individual and all other applicants - After the staff has completed its review of an application, a recommendation shall be made to the commission. The commission shall review each application at a public meeting. Each applicant found to be qualified will be issued the license requested. If the commission does not approve the application, it shall be returned to commission staff for further investigation;

(3) If an organization is currently licensed and the commission does not approve the application, the application shall be returned to commission staff for further investigation. A temporary or conditional license will be issued pending completion of the review process.

AMENDATORY SECTION (Amending WSR 96-07-075, filed 3/19/96, effective 7/1/96)

WAC 230-08-122 Annual progress and financial report—All nonprofit and charitable organizations. Each charitable or nonprofit organization licensed to conduct gambling activities shall report annually the progress made toward accomplishment of its stated purposes. This report shall be made on a standard form provided by the commission and explain the type and scope of activities that were conducted during the organization's last annual fiscal accounting period. If any applicant has provided such information on an application within the preceding twelve months, only those items that have changed must be reported. This report shall include at least the following information:

(1) A brief history of the organization, including its purpose(s): *Provided*, That only changes in the purposes and organizational structure need to be reported after the initial application;

(2) A written statement setting out the progress made in meeting its organizational purpose(s) during the period and its goals for the future;

(3) Number of membership meetings conducted;

(4) Number of active members, as defined by WAC 230-02-183;

(5) Number of voting members;

(6) The nature, type, or kind of programs provided to members or the public;

(7) The scope of the organization's programs, including:

(a) Number of persons served;

(b) The primary geographical service area; and

(c) Number of volunteer workers and estimation of hours worked;

(8) A list of contributions, scholarships, grants, or sponsorships made during the period. The list must include the following:

(a) The name of each organization or individual receiving a contribution. In the alternative, if a contribution was made to an individual for charitable purposes, the term "individual contribution" may be used instead of the individual's name. If individual names are omitted, the organization must maintain necessary records to verify and identify the recipient for each individual contribution;

(b) The amount(s);

(c) Date(s) made; and

(d) Whether funds awarded were from gambling income or other funds;

(9) Gross income from all nongambling activities, including the source;

(10) Total expenses for both charitable and nonprofit services;

(11) The percentage or extent to which net gambling income was used for charitable as distinguished from nonprofit purposes;

(12) Revenue and expenses for any nongambling sales activities must be presented separately when conducted primarily in conjunction with gambling activities;

(13) Details of any loans, contracts, or other business transactions with related parties that cumulatively exceed one thousand dollars during the period. "Related parties" is defined as officers, board members, key employees, or members of the organization, including spouses, parents, children, and brothers or sisters of each;

(14) The names, duties performed, total hours worked, and total compensation paid for the following employees:

(a) All employees paid more than forty thousand dollars annually;

(b) Part-time employees paid more than twenty dollars per hour; and

(c) All officers receiving compensation for services rendered;

(15) In addition to information required in subsection (1) of this section, any organization licensed to conduct gambling activities in Group III, IV, or V must submit complete financial statements prepared in accordance with generally accepted accounting principles and all required disclosures or footnotes. Any organization licensed to conduct gambling activities in Groups IV and V must submit financial statements prepared by a licensed certified public accountant. This information must be submitted no later than one hundred twenty days following the end of the organization's fiscal year. The financial statements must include:

(a) A statement of financial position;

(b) A statement of activities. This statement may be presented in a consolidated form if details of each component are provided as supplemental information. Revenue and expenses for each activity must be presented separately as follows:

(i) Each gambling activity;

- (ii) Retail sales conducted in conjunction with gambling activities;
- (c) A statement of cash flows;
- (d) A statement of functional expenses;
- (e) In addition to all disclosures required by generally accepted accounting principles, the financial statements must disclose the following:

(i) Loans to or from officers, board members, and employees: *Provided*, That employee salary advances of five hundred dollars or less will not be considered as loans. Details of all terms, including interest rates and payment schedules, must be disclosed;

(ii) All civil penalties, fines, bribes, or embezzlements incurred or discovered during the period; and

(iii) An explanation of any adjustments made to prior period capital accounts or net asset balances;

(f) An explanation of material differences between amounts reported on gambling activity reports and the financial statements;

(16) The commission may require additional information to ensure completeness of the information reported including selected information covering the period from the end of the fiscal year reported and the license renewal date;

(17) The commission may grant an organization additional time to submit the information required if a written request is received prior to the due date. Any request for additional time shall be signed by the president, include a statement setting out the hardship necessitating the delay, and the expected date the required report(s) will be submitted;

(18) The commission may request any organization licensed to conduct gambling activities in Group II to submit financial statements and other information required by this rule in order to evaluate the organization's qualification.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-12-060 Charitable or nonprofit—
Bingo—Special review.

AMENDATORY SECTION (Amending WSR 90-10-007, filed 4/19/90, effective 7/1/90)

WAC 230-30-052 Punchboards and pull tabs operated by charitable or nonprofit organizations—Net income required. Charitable or nonprofit organizations operating punchboards and pull tabs and which do not operate bingo games at any level shall not pay excessive expenses. To ensure that licensees meet the intent of RCW 9.46.010 and to prevent the payment of excessive expenses, net income, as a percentage of gross gambling receipts from punchboards and pull tabs, shall not be less than ~~((the limits set out in subsections (1) and (2) below))~~ zero when measured over the annual license period~~((:))~~; *Provided*, That the limits set out in Table 1. of WAC ~~((230-20-064))~~ 230-20-059 shall apply to organizations operating punchboards and pull tabs in conjunction with a bingo game. ~~((Net income limits:~~

- ~~(1) Class A and B licensees—Net income of at least 5.5%, before deduction of local taxes; and~~
- ~~(2) Class C and above licensees—Net income of at least 7.0%, before deduction of local taxes.)~~

**WSR 98-15-074
PERMANENT RULES
GAMBLING COMMISSION**

[Order 359—Filed July 15, 1998, 11:28 a.m., effective January 1, 1999]

Date of Adoption: July 10, 1998.

Purpose: In addition to housekeeping changes, reporting requirements for defective punch board 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.

Citation of Existing Rules Affected by this Order: Amending WAC 230-08-017, 230-30-030, 230-30-040, 230-30-045, 230-30-070, 230-30-080, and 230-30-106.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 98-09-058 on April 17, 1998, with a publication date of May 6, 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 7, 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 7, 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: January 1, 1999.

July 15, 1998

Susan Arland

Public Information Officer

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

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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) Punch boards 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

(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) Punch boards and pull-tabs:

(i) Standard - wagers fifty cents and below ((†)) - 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 amuse-

ment 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) Punch boards - 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 punch board 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 Punch board and pull-tab quality control program—Special inspections, defective devices, reimbursements, and fees. In order to ensure the integrity of punch boards 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 punch board or pull-tab series, whether held by an operator, storage service, distributor, or manufacturer and to examine the quality and/or integrity of the punch board 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 punch boards or pull-tab series - each punch board 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 punch board 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 punch boards 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 punch boards 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 punch boards or pull-tab series - the commission may assess a fee not to exceed one hundred dollars for each defective punch board 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. Punch board 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 punch boards and pull-tabs shall be awarded in cash or in merchandise.

~~((2))~~ 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 punch board 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 punch board 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 punch board. 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 punch board 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 punch board 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 punch board 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, punch board, 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 punch boards 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 punch board or pull-tab series all such prizes that are required to be, but have not been, deleted from the flare when the punch board 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 punch board 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 ~~((of))~~ 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

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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 Punch board 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 punch board 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 punch board 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 punch board, 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 punch board 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 punch boards or pull_tabs.

AMENDATORY SECTION (Amending WSR 97-14-012, filed 6/20/97, effective 7/21/97)

WAC 230-30-106 Punch board 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 punch board, 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 punch board, 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 punch board; 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 (~~(\$0)~~) fifty 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 punch board 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 impossible 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 punch boards 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 punch boards and pull-tab series;

(ii) Licensed operators or distributors may make and use substitute flares on punch boards 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 punch board 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 punch boards 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 98-15-075

PERMANENT RULES

GAMBLING COMMISSION

[Order 360—Filed July 15, 1998, 11:32 a.m., effective January 1, 1999]

Date of Adoption: July 10, 1998.

Purpose: Rule change enables an operator to remove a pull-tab game, which is being held for a customer, from display and replace it with a new pull-tab game. This enables an operator to offer more games for play to patrons.

Citation of Existing Rules Affected by this Order: Amending WAC 230-30-050.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 98-10-068 on May 1, 1998, with a publication date of May 20, 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 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: January 1, 1999.

July 15, 1998

Susan Arland

Public Information Officer

AMENDATORY SECTION (Amending WSR 97-14-012, filed 6/20/97, effective 7/21/97)

WAC 230-30-050 Punch board and pull-tab operating restrictions and dispensing limitations. The following operating restrictions and dispensing limitations apply to punch boards and pull-tabs:

(1) No person under the age of eighteen years and no person visibly intoxicated or visibly under the influence of any narcotic, shall be allowed to play or sell any punch board or pull-tab series. It shall be the responsibility of both the licensee and the person physically operating the punch board or pull-tab series to determine and ensure that no unauthorized person is allowed to play or sell.

(2) No operator shall permit the display or operation of any punch board or pull-tab which may have in any manner been marked, defaced, tampered with or otherwise placed in a condition, or operated in a manner, which may deceive the public or which affects the chances of winning or losing upon the taking of any chance thereon.

(3) No punch board or pull-tab series shall be placed out for play unless it meets the requirements of WAC 230-30-080.

(4) Once placed out for play, a punch board or pull-tab series flare may not be modified or otherwise changed, except for the deletion of prizes as required by WAC 230-30-070.

(5) All records, reports and receipts relating to a punch board or pull-tab series in play must be retained on the licensed premises so long as the series or punch board is in play and be made available on demand to law enforcement officers and representatives of the commission.

(6) Pull-tab dispensing limitations:

(a) No pull-tab shall be added to a series of pull-tabs after that series has been shipped from its place of manufacture;

(b) All pull-tabs must be sold from a commission approved dispensing device or a transparent container. If sold from a transparent container, the pull-tabs must be visible to the players so that the players are able to estimate the number of chances remaining in the series;

(c) All pull-tabs in a series must be thoroughly mixed prior to being placed in a dispensing device or clear container and being offered for sale. Failure to mix may result in a minimum five-day suspension of license for each series not mixed;

(d) Licensees may assemble pull-tabs into bundles with a sales price of up to twenty dollars: *Provided*, That the bundles must be thoroughly mixed prior to sale to the public;

(e) No person shall put out any pull-tab series for play unless the series of pull-tabs is wholly contained within the device or container used for dispensing that series. In cases where a spindle is used, the series of pull-tabs may sit upon the device or container used for dispensing that series: *Provided*, That progressive jackpot pull-tab games, as authorized by WAC 230-30-025, may utilize more than one machine for a series;

(f) No pull-tab series, or any portion thereof, shall be placed in any pull-tab dispensing device or container until any other series of pull-tabs previously in the device or container has been played out or permanently removed from play: *Provided*, That in the use of a multiple series dispensing device, each series shall be played independently and in accordance with this provision;

(g) Once placed out for play, no pull-tab shall be removed from the dispensing device or container until it is sold or the series is permanently removed from play, except only:

(i) Those pull-tabs removed by commission representatives or other law enforcement agency inspecting the device; or

(ii) Those tabs temporarily removed during necessary repair or maintenance of the dispensing device or container; ~~((and))~~ or

(iii) Those pull-tab series that are being permanently held for a player. A series may be permanently held for a specific player who leaves the premises, but intends to return and play the series at a later date, under the following conditions:

(A) The player meets the criteria set forth in the operator's house rules. House rules shall be developed and posted in a manner that all players can observe. House rules shall be clear in meaning and shall contain the conditions and length of time a player can permanently hold a series;

(B) The series is wholly contained in a secure manner, clearly identified as a permanently held series, and stored in the immediate vicinity of the pull-tab area on the premises;

(C) Adequate accounting records shall be maintained showing the status of all held series;

(D) The series is not placed out for further public play once the specific player is finished playing it;

(E) The maximum time a player may permanently hold a series is seven days without play, not to exceed a total held time of fourteen days; and

(F) Operators may not have more than twenty-five series permanently held for players at one time.

(7) Any punch board or pull-tab series that is permanently removed from play shall not be placed out for further play under any circumstances: *Provided*, That boards or series may be temporarily removed from play for any of the following reasons and returned to normal play at a later time:

(a) Pull-tab series removed under authority of subsection (6)(g);

(b) To reserve a game for a specific player when:

(i) The licensee has established house rules for reserving games that include reasons or conditions for reserving such

games and the maximum time for which a game may be reserved;

(ii) The house rules are clear in meaning and posted in a manner that players can observe; and

(iii) The board or series is clearly identified as reserved;

(c) A board or series is designated to be played during certain hours of the licensee's operation, such as "happy hour." Such games shall be clearly identified and house rules shall be posted regarding hours of play and/or other conditions affecting play.

WSR 98-15-081
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 98-122—Filed July 15, 1998, 3:27 p.m.]

Date of Adoption: June 24, 1998.

Purpose: Amend recreational and commercial rules to reflect 1998 North of Falcon decisions.

Citation of Existing Rules Affected by this Order: Amending WAC 220-16-550 Octopus Hole Conservation Area, 220-20-010 General provisions—Lawful and unlawful acts—Salmon, other food fish and shellfish, 220-36-021 Salmon—Grays Harbor—Summer fishery, 220-36-023 Grays Harbor salmon—Fall fishery, 220-40-021 Willapa Bay salmon—Summer fishery, 220-40-027 Salmon—Willapa Bay fall fishery, 220-47-304 Puget Sound—All citizen salmon species seasons, 220-47-307 Closed areas—Puget Sound salmon, 220-47-311 Purse seine—Open periods, 220-47-401 Reef net open periods, 220-47-410 Gill net—Daily hours, 220-47-411 Gill net—Open periods, 220-47-427 Puget Sound—Beach seine—Emerging commercial fishery—Eligibility—Lawful gear, 220-47-428 Beach seine—Open periods, 220-56-124 Unlawful provisions—Hoodspout hatchery, 220-56-126 Nonbuoyant lures and night closures—Saltwater, 220-56-128 Food fish fishing—Closed areas, 220-56-190 Coastal salmon—Saltwater seasons and daily limits, 220-56-191 Puget Sound salmon—Saltwater seasons and daily limits, 220-56-195 Closed areas—Saltwater salmon angling, 220-56-199 Closed areas—Chinook salmon angling, 220-56-205 Hook rules—Nonbuoyant lures, 220-57-120 Bear River, 220-57-130 Bogachiel River, 220-57-140 Chehalis River, 220-57-155 Clearwater River (Jefferson County), 220-57-160 Columbia River, 220-57-175 Cowlitz River, 220-57-187 Deep River (Wahkiakum County), 220-57-195 Dewatto Creek, 220-57-200 Dickey River, 220-57-235 Elochoman River, 220-57-250 Grays Harbor, 220-57-255 Green River (Cowlitz County), 220-57-270 Hoh River, 220-57-290 Icicle River, 220-57-310 Kalama River, 220-57-315 Klickitat River, 220-57-319 Lewis River, 220-57-335 Naselle River, 220-57-340 Nemah River, 220-57-350 Nooksack River, 220-57-355 North River, 220-57-365 Palix River, 220-57-385 Quillayute River, 220-57-405 Samish River, 220-57-425 Skagit River, 220-57-430 Skokomish River, 220-57-435 Skykomish River, 220-57-450 Snohomish River, 220-57-455 Snoqualmie River, 220-57-460 Sol Duc River, 220-57-465 Stillaguamish River, 220-57-480 Toutle River—North Fork,

220-57-495 Washougal River, 220-57-505 White Salmon River, 220-57-510 Willapa River, 220-57-515 Wind River, 220-57-525 Wynoochee River, and 232-28-619 Washington game fish—Exceptions to state-wide rules; new WAC 220-16-002 Definition—Adult salmon, 220-16-005 Definitions—Authorized, 220-57-432 Skookumchuck River, and 220-57-462 Soos Creek; and repealing WAC 220-47-326 Puget Sound commercial salmon—Assessment of impacts on released fish.

Statutory Authority for Adoption: RCW 75.08.080, 77.12.040.

Adopted under notice filed as WSR 98-11-086 on May 19, 1998.

Changes Other than Editing from Proposed to Adopted Version: WAC 220-36-021 Salmon—Grays Harbor—Summer fishery, 220-36-023 Salmon—Grays Harbor—Fall fishery, and 220-40-021 Salmon—Willapa Bay—Summer fishery, housekeeping change removing the word "from." WAC 220-40-027 Salmon—Willapa Bay—Fall fishery, housekeeping change removing the word "from." Added open periods for fishery in SMCRA 2M and 2G and changed opening date of one fishery in SMCRA 2H per North of Falcon agreement. WAC 220-47-304 Puget Sound—All citizen salmon species seasons, changes species season beginning date in Area 12B to December 18 to conform to management periods agreed to with the Point No Point Treaty Council. WAC 220-47-307 Closed areas—Puget Sound salmon, housekeeping deletion of expired language. Changed Jones Island to James Island in subsection (8) to make geographical reference correct. WAC 220-47-311 Purse seine—Open periods, added open dates and hours for Area 12C per North of Falcon agreements. WAC 220-47-411 Gill net—Open periods, added one day to the opening in Areas 7 and 7A and changed opening in Area 12C per North of Falcon agreement. WAC 220-56-128 Food fish fishing—Closed areas, deleted double listing of Agate Pass closure. WAC 220-56-191 Puget Sound salmon—Saltwater seasons and daily limits, housekeeping change to the name Fourmile rock. WAC 220-56-195 Closed areas—Saltwater salmon angling, changed Commencement Bay closure end date to July 31 per North of Falcon agreement. Housekeeping change in wording for Rosario Strait. WAC 220-56-199 Closed areas—Chinook salmon angling, deleted Duwamish waterway closure. WAC 220-57-270 Hoh River, deleted requirement to release adult coho salmon per the North of Falcon agreement. WAC 220-57-385 Quillayute River, deleted requirement for single barbless hooks per North of Falcon agreement. WAC 220-57-450 Snohomish River, opening date changed from September 1 to October 1. WAC 220-57-455 Snoqualmie River, opening date changed from September 1 to October 1 per North of Falcon agreement.

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 62, 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.

July 15, 1998

Evan Jacoby
for Bern Shanks
Director

NEW SECTION

WAC 220-16-002 Definition—Adult salmon. "Adult salmon" is defined as a chinook salmon greater than 24 inches in length, a coho salmon greater than 20 inches in length, or a chum, pink or sockeye salmon greater than 12 inches in length.

NEW SECTION

WAC 220-16-005 Definitions—Authorized. "Authorized" when used in the context of authorized employee, authorized department personnel, authorized representative of the department, and terms of similar character, shall be defined as any person employed by the department and performing department activities, or any other person under the direct supervision of an employee and who is performing department activities.

AMENDATORY SECTION (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

WAC 220-16-550 Octopus Hole Conservation Area. "Octopus Hole Conservation Area" is defined as those waters and bedlands of Hood Canal within a line projected due east from the western shore of Hood Canal on latitude 47°27'01"N for 200 yards, thence southerly 628 yards parallel to the high water mark to latitude ((46°26'66")) 47°26'66", thence due west to shore, but excluding those tidelands, bedlands and waters within 100 feet of the high water mark.

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 fish-

ing 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.

(a) Shellfish pot, bottom fish pot, set line and set net gear must be 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))~~ (i) Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

~~((b))~~ (ii) 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.

(b) It is unlawful to operate any gill net, attended or unattended, unless there is affixed, within five feet of each end of the net, a buoy, float, or some other form of marker, visible on the corkline of the net, on which shall be marked in a visible, legible and permanent manner the name and gill net license number of the fisher.

(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

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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 provided 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 Walan Point 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.

AMENDATORY SECTION (Amending Order 97-123, filed 7/23/97, effective 8/23/97)

WAC 220-36-021 Salmon—Grays Harbor—Summer fishery. ((From)) July 5 through August 15 of ((1997)) 1998, it is unlawful to fish for salmon in Grays Harbor for commercial purposes or to possess salmon taken from those waters for commercial purposes.

AMENDATORY SECTION (Amending Order 97-123, filed 7/23/97, effective 8/23/97)

WAC 220-36-023 Grays Harbor salmon—Fall fishery. ((From)) August 16 through December 31 of each year, it is unlawful to fish for salmon in Grays Harbor for commercial purposes, except that:

Fishing period

((+)) Gill net gear may be used to fish for salmon from 6:00 p.m. September ((2)) 27 to 6:00 p.m. ((September 4, and 6:00 p.m. September 9 to 6:00 p.m. September 11, 1997)) October 2, 1998, in SMCRA 2C.

((2)) ~~Gill net gear may be used to fish for salmon from 6:00 p.m. September 2 to 6:00 p.m. September 4, and 6:00 p.m. September 9 to 6:00 p.m. September 11, 1997, in SMCRA 2D.~~

((3)) ~~Gill net gear shall be used as provided for in WAC 220-36-015, except that it shall not contain mesh smaller than 8 inches.~~

AMENDATORY SECTION (Amending Order 97-123, filed 7/23/97, effective 8/23/97)

WAC 220-40-021 Willapa Bay salmon—Summer fishery. ((From)) July 5 through August 15 of ((1997)) 1998, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes.

AMENDATORY SECTION (Amending Order 97-123, filed 7/23/97, effective 8/23/97)

WAC 220-40-027 Salmon—Willapa Bay fall fishery. ((From)) August 16 through December 31 of each year, it is

unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

Fishing period

(1) Gill net gear may be used to fish for salmon from:

(a) 6:00 ((p.m. August 18)) a.m. to 6:00 p.m. August 19((, 6:00 p.m. August 21 to 6:00 p.m. August 22,)) and 6:00 p.m. August ((27)) 26 to 6:00 p.m. August ((28)) 27, ((6:00 p.m. September 2 to 6:00 p.m. September 4 and 6:00 p.m. September 8 to 6:00 p.m. September 10, 1997)) 1998, in SMCRA 2M, that portion of SMCRA 2G east of a line drawn true north-south through Willapa Channel Entrance Buoy 12, that portion of SMCRA 2H west of Willapa Channel Marker 35 and that portion of SMCRA 2J north of an east-west line through the north entrance marker to the Nahcotta boat basin (red flasher no. 2);

(b) 6:00 p.m. September ((16)) 21 to 6:00 p.m. September 25, 6:00 p.m. September 27 to 6:00 p.m. October 1 and 6:00 p.m. October 4 to 6:00 p.m. October 8, ((1997)) 1998, in SMCRA 2H((, 2M and that portion of SMCRA 2G east of a line drawn true north-south through Willapa Channel Entrance Buoy 12));

(c) 6:00 p.m. September ((18)) 21 to ((6:00 p.m. September 19,)) 6:00 p.m. September 22 ((to)) 6:00 p.m. September ((23,)) 24 to 6:00 p.m. September 25 ((to)) 6:00 p.m. September ((26,)) 28 to 6:00 p.m. September 29 ((to 6:00 p.m. September 30)), and 6:00 p.m. October ((2)) 5 to 6:00 p.m. October ((3)) 6, ((1997)) 1998, in that part of SMCRA 2J north of an east-west line through the north entrance marker to the Nahcotta basin (red flasher no. 2).

(d) 6:00 p.m. ((October 4)) September 21 to 6:00 p.m. October ((9, 1997, in SMCRA 2H)) 1, and 6:00 p.m. October 4 to 6:00 p.m. October 8, 1998, in SMCRA 2M and SMCRA 2G east of a line drawn true north-south through Willapa Channel entrance buoy 12.

(2) The Tokeland Boat basin is closed to commercial fishing during the openings in SMCRA 2G described in this section. The Tokeland Boat basin means that portion of SMCRA 2G bounded on the south by the shoreline of the boat basin, on the west by the seawall and on the north and east by a line from the Tokeland Channel Marker "3" (flashing green, 4-second) to Tokeland Channel Marker "4" to the tip of the seawall.

Gear

(3) Gill net gear shall be used as provided in WAC 220-40-015 except that before 6:00 p.m. September ((17)) 22, there is no maximum mesh size limit, and ((after 6:00 p.m. October 4 the minimum)) the maximum mesh size is ((8)) 6 1/2 inches September 22 through October 8, 1998.

AMENDATORY SECTION (Amending Order 97-124, filed 7/29/97, effective 8/29/97)

WAC 220-47-307 Closed areas—Puget Sound salmon. It is unlawful at any time, unless otherwise provided, to take, fish for, or possess salmon taken for commercial purposes with any type of gear from the following portions of Puget Sound Salmon Management and Catch Reporting

Areas, except that closures listed in this section shall not apply to reef net fishing areas listed in RCW 75.12.140:

Areas 4B, 5, 6, 6B, and 6C - The Strait of Juan de Fuca Preserve as defined in WAC 220-47-266.

Area 6D - That portion within 1,000 feet of each mouth of the Dungeness River. ~~((Through October 4, 1997, closed in those waters within 1,000 feet of shore between the Dungeness Oyster House and a fish and wildlife boundary marker 1,000 feet east of the easternmost mouth of the Dungeness River.))~~

Area 7 - (1) The San Juan Island Preserve as defined in WAC 220-47-262.

(2) Those waters within 1,500 feet of shore on Orcas Island from Deer Point northeasterly to Lawrence Point thence west to a point intercepting a line projected from the northernmost point of Jones Island thence 90° true to Orcas Island.

(3) Those waters within 1,500 feet of the shore of Cypress Island from Cypress Head to the northernmost point of Cypress Island.

(4) Those waters easterly of a line projected from Iceberg Point to Iceberg Island, to the easternmost point of Charles Island, then true north from the northernmost point of Charles Island to the shore of Lopez Island.

(5) Those waters northerly of a line projected from the southernmost point of land at Aleck Bay to the westernmost point of Colville Island, thence from the easternmost point of Colville Island to Point Colville.

(6) Those waters within 1,500 feet of the shore of Fidalgo Island from the Initiative 77 marker northerly to Biz Point, those waters easterly of a line projected from ((Edith)) Biz Point on Fidalgo Island to the Williamson Rocks light, thence to the Dennis Shoal Light, thence to the light on the westernmost point of Burrows Island, thence to the south-westernmost point of Fidalgo ((Head)) Island, those waters within 1,500 feet of the western shore of Allan Island, those waters within 1,500 feet of the western shore of Burrows Island, and those waters within 1,500 feet of the shore of Fidalgo Island from Fidalgo Head northerly to Shannon Point.

(7) Those waters within 1,500 feet of Lopez Island from Point Colville northerly to Lopez Pass and those waters within 1,500 feet of the eastern shore of Decatur Island from the southernmost point of land northerly to Fauntleroy Point.

(8) Those waters within 1,500 feet of the shore of James Island.

Area 7A - The Drayton Harbor Preserve as defined in WAC 220-47-252.

Area 7B - That portion south and east of a line from William Point on Samish Island to Saddlebag Island to the south-eastern tip of Guemes Island, and that portion northerly of the railroad trestle in Chuckanut Bay.

Area 7C - That portion southeasterly of a line projected from the mouth of Oyster Creek 237° true to a fishing boundary marker on Samish Island.

Area 8 - (1) That portion of Skagit Bay easterly of a line projected from Brown Point on Camano Island to a white monument on the easterly point of Ika Island, thence across the Skagit River to the terminus of the jetty with McGlenn Island.

(2) Those waters within 1,500 feet of the western shore of Camano Island south of a line projected true west from Rocky Point.

Area 8A - Those waters easterly of a line projected from Mission Point to Buoy C1, excluding the waters of Area 8D, thence through the green light at the entrance jetty of the Snohomish River and across the mouth of the Snohomish River to landfall on the eastern shore, and those waters northerly of a line from Camano Head to the northern boundary of Area 8D.

Area 9 - Those waters lying inside and westerly of a line projected from the Point No Point light to Sierra Echo buoy thence to Forbes Landing wharf, east of Hansville.

Area 10 - (1) Those waters easterly of a line projected from Meadow Point to West Point.

(2) Those waters of Port Madison northwest of a line from the Agate Pass entrance light to the light on the end of the Indianola dock.

(3) Additional coho seasonal closure: Those waters of Elliott Bay east of a line from Alki Point to the light at Four-mile Rock and those waters northerly of a line projected from Point Wells to "SF" Buoy then west to President's Point.

Area 10E - Those waters of Liberty Bay north of a line projected due east from the southernmost Keyport dock, those waters of Dyes Inlet north of the Manette Bridge, and those waters of Sinclair Inlet southwest of a line projected true east from the Bremerton ferry terminal.

Area 11 - (1) Those waters northerly of a line projected true west from the light at the mouth of Gig Harbor and those waters south of a line from Browns Point to the northernmost point of land on Point Defiance.

(2) Additional coho seasonal closure: Those waters south of a line projected from the light at the mouth of Gig Harbor to the Tahlequah ferry dock then south to the Point Defiance ferry dock, and those waters south of a line projected from the Point Defiance ferry dock to Dash Point.

Area 12 - Those waters inside and easterly of a line projected from Lone Rock to the navigation light off Big Beef Creek, thence southerly to the tip of the outermost northern headland of Little Beef Creek.

Area 12A - Those waters north of a line projected due east from Broad Spit.

Area 12B - Those waters within 1/4 mile of the mouths of the Dosewallips, Duckabush, and Hamma Hamma rivers and Anderson Creek.

Areas 12, 12A, and 12B - Additional chinook seasonal closure: Those waters north and east of a line projected from Tekiu Point to Triton Head.

Areas 12, 12B and 12C - Those waters within 1,000 feet of the eastern shore.

Area 12C - (1) Those waters within 2,000 feet of the western shore between the dock at Glen Ayr R.V. Park and the Hoodsport marina dock.

(2) Those waters south of a line projected from the Cushman Powerhouse to the public boat ramp at Union.

(3) Those waters within 1/4 mile of the mouth of the Dewatto River.

Areas 12 and 12D - Additional coho and chum seasonal closure: Those waters of Area 12 south and west of a line projected 94 degrees true from Hazel Point to the light on the

opposite shore, bounded on the west by the Area 12/12B boundary line, and those waters of Area 12D.

Area 13A - Those waters of Burley Lagoon north of State Route 302, those waters within 1,000 feet of the outer oyster stakes off Minter Creek Bay including all waters of Minter Creek Bay, those waters westerly of a line drawn due north from Thompson Spit at the mouth of Glen Cove, and those waters within 1/4 mile of Green Point.

AMENDATORY SECTION (Amending Order 97-124, filed 7/29/97, effective 8/29/97)

WAC 220-47-304 Puget Sound—All citizen salmon species seasons. The following are Puget Sound all citizens salmon species seasons listed by area and species:

AREA	SPECIES	DATE	RANGE
6D:	COHO	((9/21 - 10/25)) <u>9/20</u>	<u>10/24</u>
7.7A:	FRASER SOCKEYE ((AND PINK CHUM	6/22 - 9/27) <u>6/21</u> = <u>9/26</u> ((9/28 - 11/15)) <u>9/27</u> = <u>11/14</u>	
7B:	CHINOOK COHO CHUM	((8/10 - 9/6)) <u>8/9</u> = <u>9/5</u> ((9/7 - 10/25)) <u>9/6</u> = <u>10/24</u> ((10/26 - 12/13)) <u>10/25</u> = <u>12/12</u>	
7C:	CHINOOK	((8/10 - 10/11)) <u>8/9</u> = <u>10/10</u>	
8:	((PINK CHUM	8/24 - 9/13) ((10/26 - 11/29)) <u>10/25</u> = <u>11/28</u>	
8A:	((PINK CHUM	8/3 - 9/6) ((10/19 - 11/29)) <u>10/18</u> = <u>11/28</u>	
8D:	COHO CHUM	((9/21 - 11/8)) <u>9/20</u> = <u>11/7</u> ((11/9 - 12/20)) <u>11/8</u> = <u>12/19</u>	
9A:	COHO	((9/14 - 11/4)) <u>9/13</u> = <u>10/31</u>	
10, 11:	COHO CHUM	((9/7 - 10/11)) <u>9/6</u> = <u>10/10</u> ((10/12 - 11/29)) <u>10/11</u> = <u>11/28</u>	
12:	CHUM	((10/19)) <u>10/18</u>	11/20
12A:	COHO	((8/31 - 10/11)) <u>8/30</u> = <u>10/10</u>	
12B:	CHUM	((10/19)) <u>10/18</u>	11/20

AREA	SPECIES	DATE	RANGE
12C:	CHUM	((10/26)) <u>10/25</u>	11/27

AMENDATORY SECTION (Amending Order 97-124, filed 7/29/97, effective 8/29/97)

WAC 220-47-311 Purse seine—Open periods. During 1997, it is unlawful to take, fish for or possess salmon taken with purse seine gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the periods provided for hereinafter in each respective Management and Catch Reporting Area:

AREA	TIME	DATE	TIME	DATE
7, 7A:	7AM	-	6PM	10/20, ((10/21, 10/29, 10/30,)) <u>10/26</u>
	((6AM)) <u>7AM</u>	-	5PM	((11/03)) <u>11/04</u> , <u>11/05</u> , <u>11/09</u> , <u>11/10</u> , <u>11/11</u> , 11/12, ((11/13))
7B:	6AM	9/08	-	4PM ((9/12)) <u>9/11</u>
	6AM	((9/15)) <u>9/14</u>	-	4PM ((9/19)) <u>9/18</u>
	6AM	((9/21)) <u>9/20</u>	-	4PM ((11/01)) 10/31
	6AM	((11/03)) <u>11/02</u>	-	4PM ((11/07)) <u>11/06</u>
	6AM	((11/10)) <u>11/09</u>	-	4PM ((11/14)) <u>11/13</u>
	6AM	((11/17)) <u>11/16</u>	-	4PM ((11/21)) <u>11/20</u>
	6AM	((11/24)) <u>11/23</u>	-	4PM ((11/28)) <u>11/27</u>
	6AM	((12/01)) <u>11/30</u>	-	4PM ((12/05)) <u>12/04</u>
	6AM	((12/08)) <u>12/07</u>	-	4PM ((12/12)) <u>12/11</u>
8:	((5AM <u>6AM</u>	-	9PM <u>8PM</u>	8/25, 8/26 9/04, 9/05, 9/08, 9/09)) ((10/28)) <u>10/26</u> 11/03, ((11/04, 11/12)) <u>11/09</u> , <u>11/17</u> , <u>11/23</u>
8A:	7AM	-	6PM	<u>10/21</u> , <u>10/22</u> , <u>10/26</u> , <u>10/27</u> ((10/29, 10/30))

PERMANENT

AREA	TIME	DATE	TIME	DATE
	7AM	-	5PM	((11/03,)) 11/04, ((11/12, 11/13, 11/17, 11/18,)) 11/05, 11/09, 11/10, 11/18, 11/19, 11/23, 11/24, 11/25, ((11/26)) 11/30, 12/01
8D:	7AM	-	7PM	9/21, 9/22, 9/23, 9/24, ((9/25,)) 9/29, 9/30, 10/01, 10/02, ((10/03,)) 10/05, 10/06, 10/07, 10/08, ((10/09,)) 10/13, 10/14, 10/15, 10/16, ((10/17, 10/20, 10/21, 10/22, 10/23)) 7AM - 6PM ((10/29, 10/30)) 10/21, 10/22, 10/26, 10/27
	7AM	-	5PM	((11/03,)) 11/04, ((11/12, 11/13, 11/17,)) 11/05, 11/09, 11/10, 11/18, 11/19, 11/23, 11/24, 11/25, ((11/26)) 11/30, 12/01
10, 11:	7AM	-	6PM	((10/20, 10/28)) 10/26
	7AM	-	5PM	11/03, 11/04, 11/09, ((11/12,)) 11/17, 11/23
12, 12B:	7AM	-	6PM	10/20, ((10/21, 10/28, 10/29)) 10/26
	7AM	-	5PM	((11/03,)) 11/04, ((11/12,)) 11/05, 11/09, 11/10, 11/17
12C:	7AM	-	5PM	11/17, 11/23

It is unlawful to retain chinook salmon taken with purse seine gear ((in Areas 7, 7B, 8, 8A, 12, 12B and 12C. It is unlawful to retain chinook salmon taken with purse seine gear in Area 7A from October 1 to November 30, 1997. It is unlawful to retain coho salmon taken with purse seine gear in Area 8A)). All other saltwater and freshwater areas - closed.

AMENDATORY SECTION (Amending Order 97-124, filed 7/29/97, effective 8/29/97)

WAC 220-47-401 Reef net open periods. During 1997, it is unlawful to take, fish for or possess salmon taken with reef net gear for commercial purposes in Puget Sound except in the following designated Puget Sound Salmon Manage-

ment and Catch Reporting Areas, during the periods provided for hereinafter in each respective area:

AREA	TIME	DATE(S)
7,7A	7AM - 7PM	DAILY ((9/15-9/19, 9/22-9/26, 9/29-10/3, 10/6-10/10, 10/13-10/17, 10/20-10/24, 10/27-10/31, 11/3-11/7)) 9/7 - 9/11 9/14 - 9/18 9/21 - 9/25 9/28 - 10/2 10/5 - 10/9 10/12 - 10/16 10/19 - 10/23 10/26 - 10/30 11/2 - 11/6 11/9 - 11/13

It is unlawful to retain chinook salmon taken with reef net gear. All other saltwater and freshwater areas - closed.

AMENDATORY SECTION (Amending Order 97-124, filed 7/29/97, effective 8/29/97)

WAC 220-47-410 Gill net—Daily hours. It shall be unlawful to take or fish for sockeye or pink salmon in Areas 7 or 7A with gill net gear from 12:00 midnight to 1.5 hours after sunrise. ((In 1997, it shall be unlawful to take or fish for sockeye or pink salmon in areas 7 or 7A with gill net gear except within the following daily hours:

Week	Open at or after	Close at or before
6/29/97 - 7/5/97	6:45 am	12:00 midnight, at which time all gear must be out of the water and stowed aboard.)
7/6/97 - 7/12/97	6:50 am	
7/13/97 - 7/19/97	6:55 am	
7/20/97 - 7/26/97	7:05 am	
7/27/97 - 8/2/97	7:10 am	
8/3/97 - 8/9/97	7:20 am	
8/10/97 - 8/16/97	7:30 am	
8/17/97 - 8/23/97	7:40 am	
8/24/97 - 8/30/97	7:50 am	

AMENDATORY SECTION (Amending Order 97-124, filed 7/29/97, effective 8/29/97)

WAC 220-47-411 Gill net—Open periods. During 1997, it is unlawful to take, fish for or possess salmon taken with gill net gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon

PERMANENT

Management and Catch Reporting Areas during the seasons provided for hereinafter in each respective fishing area:

AREA	TIME	DATE(S)
6D:	((7AM-8PM	9/29, 9/30, 10/1, 10/2, 10/3, 10/6, 10/7, 10/8, 10/9, 10/10)
	7AM - 7PM Daily	((10/13, 10/14, 10/15, 10/16, 10/17, 10/20, 10/21, 10/22, 10/23, 10/24) 9/21 - 9/25 9/28 - 10/2 10/5 - 10/9 10/12 - 10/16 10/19 - 10/23

Note: Area 6D skiff gill net only. It is unlawful to retain chinook ((~~or~~)), pink, or chum salmon in Area 6D.

7,7A:	7AM - 7PM	((10/23, 10/29) 10/19
	7AM - 6PM	10/27, ((10/28, 11/4)) 11/2, 11/3, 11/9, 11/10, 11/11, 11/12

7B:	7PM - 9AM	NIGHTLY	((8/18, 8/25, 8/26, 9/2) 8/17, 8/24, 8/31
	6AM	9/8	4PM ((9/12) 9/11
	6AM	((9/15) 9/14	4PM ((9/19) 9/18
	6AM	((9/21) 9/20	4PM ((11/4) 10/31
	6AM	((11/3) 11/2	4PM ((11/7) 11/6
	6AM	((11/10) 11/9	4PM ((11/14) 11/13
	6AM	((11/17) 11/16	4PM ((11/21) 11/20
	6AM	((11/24) 11/23	4PM ((11/28) 11/27
	6AM	((12/1) 11/30	4PM ((12/5) 12/4
	6AM	((12/8) 12/7	4PM ((12/12) 12/11

7C:	7PM - 9AM	NIGHTLY	((8/18, 8/25, 8/26, 9/2) 8/17, 8/24, 8/31
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8:	((6AM-9PM	8/27, 8/28, 9/2, 9/3, 9/10, 9/11)
	7AM - 6PM	10/27, ((11/5, 11/6)) 11/2, 11/10, ((11/18) 11/16 11/24
	7AM - 5PM	11/24
8A:	7AM - ((6PM) 7PM	((10/27, 10/28, 11/5, 11/6, 11/10, 11/11, 11/19, 11/20) 10/19, 10/20
	7AM - 6PM	10/28, 10/29, 11/2, 11/3, 11/11, 11/12, 11/16, 11/17

	7AM - 5PM	((11/22)) 11/23, 11/24, 11/25, 12/2, 12/3	
8D:	6PM - 8AM	NIGHTLY	((9/22, 9/23, 9/24, 9/25, 9/29, 9/30, 10/1, 10/2, 10/6, 10/7, 10/8, 10/9, 10/13, 10/14, 10/15, 10/16, 10/20, 10/21, 10/22, 10/23) 9/21 - 9/24 9/28 - 10/1 10/5 - 10/8 10/12 - 10/15 10/19, 10/20 7AM - 7PM 7AM - 6PM
	7AM - 6PM	((10/27)) 10/28, ((11/5, 11/6, 11/10)) 10/29, 11/2, 11/3, 11/11, ((11/19, 11/20)) 11/12, 11/16, 11/17	
	7AM - 5PM	((11/22)) 11/23, 11/24, 11/25, 12/2, 12/3	
9A:	6AM	((9/14) 9/13 through	4PM ((11/1) 10/31
10, 11:	5PM ((8AM	NIGHTLY	10/20, 10/27) 10/26, 8AM 10/27
	4PM - 8AM	NIGHTLY	11/2, 11/3, ((11/10, 11/17) 11/9, 11/16, 11/23
12, 12B:	((5PM-8AM	NIGHTLY	10/20, 10/21, 10/27, 10/28
	4PM - 8AM	NIGHTLY	11/3, 11/4, 11/10, 11/17)
	7AM - 7PM		10/19
	7AM - 6PM		10/27, 11/2, 11/3, 11/11, 11/12, 11/16
12C:	7AM - 6PM		11/16
	7AM - 5PM		11/24

All other saltwater and freshwater areas - closed. Nightly openings refer to the start date.

AMENDATORY SECTION (Amending Order 97-124, filed 7/29/97, effective 8/29/97)

WAC 220-47-427 Puget Sound—Beach seine—Emerging commercial fishery—Eligibility—Lawful gear.

(1) The Puget Sound beach seine salmon fishery is designated as an emerging commercial fishery for which a vessel is required. An emerging commercial fishery license and an experimental fishery permit are required to participate in this fishery.

(2) The department will issue five Quilcene Bay salmon beach seine experimental fishery permits (Quilcene permits).

(3) The following is the selection process the department will use to offer a Quilcene permit.

(a) Persons who held a Quilcene Bay salmon beach seine experimental fishery permit in ((1996)) 1997 will be eligible for a permit in ((1997)) 1998.

PERMANENT

(b) The department established a pool of applicants by drawing on September 9, 1996. The pool established by this drawing will be maintained to replace any permit(s) which may be voided.

(4) Permit holders are required to participate in the Quilcene Bay salmon beach seine experimental fishery.

(a) For purposes of this section, "participation" means the holder of the Quilcene permit being aboard the designated vessel in the open fishery area four days each week during the open fishing period, except that during the Fraser sockeye and pink salmon species season in Areas 7 and 7A "participation" means the holder of the Quilcene permit being aboard the designated vessel in the open fishery area two days each week during the open fishing period.

(b) If the Quilcene permit holder fails to participate, the Quilcene permit issued to that fisher will be void and a new Quilcene permit will be ~~((reissued))~~ issued through a random drawing from the applicant pool established in 1996.

(c) The department may require proof of participation by registering with state, federal or tribal officials each day the Quilcene permit holder participates.

(d) Persons who participate, but violate conditions of a Quilcene permit, will have the permit voided and a new Quilcene permit will be reissued through a random drawing from the pool of the voided permit holder. Chum salmon may not be retained by a Quilcene permit holder. Chum salmon must be released alive, or, at the direction of federal or state officials, submitted for broodstock purposes.

(5) Any person who fails to purchase the license, fails to participate, or violates the conditions of a Quilcene permit will have his or her name permanently withdrawn from the pools.

(6) It is unlawful to take salmon with beach seine gear that does not meet the requirements of this subsection.

(a) Beach seine salmon nets in Puget Sound shall not exceed 600 feet in length or 100 meshes in depth, or contain meshes of a size less than 3 inches or greater than 4 inches.

(b) Mesh webbing must be constructed with a twine size no smaller than 210/30d nylon, 12 thread cotton, or the equivalent diameter in any other material.

AMENDATORY SECTION (Amending Order 97-124, filed 7/29/97, effective 8/29/97)

WAC 220-47-428 Beach seine—Open periods. During 1997, it is unlawful to take, fish for, or possess salmon taken with beach seine gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the periods provided hereinafter in each respective Management and Catch Reporting Area:

AREA	TIME	DATE(S)
12A:	7AM - 7PM <u>Daily</u>	((9/2, 9/3, 9/4, 9/5, 9/8, 9/9, 9/10, 9/11, 9/12, 9/15, 9/16, 9/17, 9/18, 9/19, 9/22, 9/23, 9/24, 9/25, 9/26, 9/29, 9/30, 10/1, 10/2, 10/3, 10/6, 10/7, 10/8, 10/9, 10/10, 10/13, 10/14,

AREA	TIME	DATE(S)
		10/15, 10/16, 10/17)
		<u>8/31 - 9/4</u>
		<u>9/7 - 9/11</u>
		<u>9/14 - 9/18</u>
		<u>9/21 - 9/25</u>
		<u>9/28 - 10/2</u>
		<u>10/5 - 10/9</u>

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-47-326 Puget Sound commercial salmon—Assessment of impacts on released fish.

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-56-124 Unlawful provisions—Hoodspout Hatchery. During the period ~~((October))~~ July 1 through December 15, those waters of Catch Record Card Area 12 within a 2,000 foot arc seaward of yellow buoys at the mouth of Finch Creek at the Hoodspout Salmon Hatchery are regulated as provided for in this section:

(1) These waters are open to salmon angling regardless of the status of the surrounding waters of Area 12.

(2) Special daily limit of four salmon, except release ~~((chinook))~~ chum salmon and of which no more than one salmon may be a chinook salmon - ((October)) July 1 through October 15. Special daily limit of four salmon of which no more than ~~((two))~~ one may be a chinook salmon - October 16 through December 15.

(3) ~~((During the period October 1 through December 15))~~ It is unlawful to fish for or possess salmon taken from these waters from ((8:00 p.m. to 6:00 a.m.)) one hour after sunset to one hour before sunrise.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

WAC 220-56-126 Nonbuoyant lures and night closures—Saltwater. It is unlawful to fish for or possess salmon taken for personal use from the following saltwater areas unless the hooks meet the requirements of this section.

(1) Nonbuoyant lure restriction: In the following waters during the periods shown, it is unlawful to use a nonbuoyant lure that has more than one single hook or has a hook measuring more than 3/4 inch point to shank:

Area	Time Period
Duwamish waterway downstream from the First Avenue South Bridge to an east-west line through SW Hanford Street on Harbor Island parallel to SW Spokane Street where it crosses Harbor Island	July 1 - November 30

PERMANENT

Area	Time Period
Budd Inlet - waters south of a line true west from the KGY radio station to the mainland and north of the closed zone provided for in WAC 220-56-128	July 16 - October 31
Westport Boat Basin	((July 1)) <u>August 16 - January 31</u>

(2) During the gear restricted periods provided for in this section it is unlawful to fish for food fish or shellfish from one hour after official sunset to one hour before official sunrise.

(3) No leads, weights, or sinkers may be attached below or less than 12 inches above a lure.

(4) All hooks must be attached within 3 inches of the bait or lure.

(5) It is unlawful to use baitfish jigger gear.

AMENDATORY SECTION (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

WAC 220-56-128 Food fish fishing—Closed areas. It is unlawful to fish for or possess food fish taken from the following areas during the times indicated.

(1) It is unlawful at all times to fish for or possess food fish taken for personal use in waters lying within 400 feet below any fish rack, fishway, dam or other artificial or natural obstruction, either temporary or permanent, unless otherwise provided.

(2) Waters of Budd Inlet at Olympia south of the Fourth Avenue Bridge are closed at all times, and all contiguous waters lying between the Fourth Avenue Bridge and a line from the northwesterly corner of the ~~((Bayview))~~ Thriftway Market Building to a point 100 yards north of the railroad bridge located on the western side of the inlet opposite the ~~((Bayview))~~ Thriftway Market Building are closed during the period July 16 through October 31.

(3) The waters of Percival Cove are closed at all times.

(4) Those waters of Hood Canal inshore from yellow marker buoys to the mouth of Finch Creek are closed the entire year.

(5) Waters within a radius of 100 yards from the Enetai Hatchery Outfall Creek where it enters saltwater are closed at all times.

(6) Those waters of Sinclair Inlet inside a line fifty yards from the pierhead line of the Puget Sound Naval Shipyard at Bremerton are closed at all times.

(7) Those waters of Hood Canal within 100 feet of the Seabeck Highway Bridge over Big Beef Creek are closed August 1 through November 30.

(8) In Shilshole Bay waters east of a line 175 feet west of the Burlington Northern Railroad Bridge are closed to fishing.

(9) Those waters of the Chinook River upstream from tide gate at the Highway 101 Bridge are closed at all times.

(10) Those waters of the Columbia River between the Vernita Bridge and the Hanford power line crossing (wooden

towers at S24, T13N, R27E) are closed October 23 through June 15.

(11) Those waters of the Columbia River between the upstream line of Bonneville Dam to a point 600 feet below the fish ladder at the new Bonneville Dam Powerhouse are closed at all times.

(12) Waters of the Lake Washington Ship Canal west of a north-south line 400 feet east of the eastern end of the north wing wall of Chittenden Locks to the mouth of the Lake Washington Ship Canal are closed to food fish angling at all times.

(13) Waters of Catch Record Card Area 10 west of a line from Point Monroe to Indianola and east of a line from Point Bolin to Battle Point are closed to food fish angling from January 1 through March 31.

(14) Waters within 200 yards of the salmon net pens located near Sund Rock in Hood Canal are closed to the taking of food fish other than salmon at all times.

(15) Waters of the Titlow Beach Marine Preserve Area are closed to the taking of food fish at all times except that it is lawful to fish for salmon with artificial lures only from shore or a nonmotorized vessel.

(16) Chief Joseph Dam - closed to fishing from the Okanogan County shore between the dam and the Highway 17 Bridge. Closed to boat fishing downstream of Chief Joseph Dam to the Corps of Engineers Safety Zone Marker.

(17) Wells Dam - waters between the upstream line of Wells Dam to boundary markers 400 feet below the spawning channel discharge on the Chelan County side and the fish ladder on the Douglas County side.

(18) Rocky Reach, Rock Island and Wanapum Dams - waters between the upstream lines of these dams and boundary markers 400 feet downstream of the fish ladders at Rocky Reach and Rock Island Dams and boundary markers at Wanapum Dam 750 feet below the east fish ladder and 500 feet below the west fish ladder.

(19) Priest Rapids Dam - waters between the upstream line of Priest Rapids Dam and boundary markers 650 feet below the fish ladders.

(20) Jackson (Moran) Creek - all waters of the Priest Rapids hatchery system including Columbia River waters out to midstream between markers located 100 feet upstream and 400 feet downstream of the mouth of the hatchery outlet.

(21) McNary Dam - waters between the upstream line of McNary Dam and a line across the river from the red and white marker on the Oregon shore to the downstream end of the wingwall of the boat lock near the Washington shore.

(22) John Day Dam - waters between the upstream line of John Day Dam and markers approximately 3,000 feet downstream, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(23) The Dalles Dam - waters between the upstream line of the Dalles Dam and the upstream side of the Interstate 197 Bridge, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(24) Spring Creek - waters within 1/4 mile of the U.S. Fish and Wildlife Service Hatchery grounds between posted boundary markers located 1/4 mile on either side of the fish ladder entrance.

(25) The following conservation areas are closed year round:

- (a) Brackett's Landing Shoreline Sanctuary Conservation Area.
- (b) City of Des Moines Park Conservation Area.
- (c) Octopus Hole Conservation Area.
- (d) Orchard Rocks Conservation Area.
- (e) South 239th Street Park Conservation Area.

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-56-190 Coastal salmon—Saltwater seasons and daily limits. It shall be unlawful to take, fish for or possess salmon taken by angling for personal use except from the following coastal areas, during the seasons, in the quantities, sizes and for the species designated in this section and as defined in the daily limit codes in WAC 220-56-180:

(1) Catch Record Card Area 1 - Special daily limit of two salmon not more than one of which may be a chinook salmon, except release wild coho salmon, special cumulative limit of four salmon in any (~~seven consecutive days~~) Sunday through the following Thursday period - Sundays through Thursdays only, (~~July 24~~) August 3 through September (~~25~~) 24, except closed (~~0-3 miles offshore and closed~~) in the Columbia River Mouth Control Zone 1, see WAC 220-56-195.

(2) Catch Record Card Area 2 - Special daily limit of two salmon only one of which may be a chinook salmon, special cumulative limit of four salmon in any (~~seven consecutive days~~) Sunday through the following Thursday period - Sundays through Thursdays only, (~~July 24~~) August 3 through September (~~25~~) 24, except closed 0-3 miles offshore.

(3) Grays Harbor (Catch Record Card Area 2-2) (a) Special daily limit of six salmon, not more than (~~four~~) one of which may be an adult salmon (~~(, defined as chinook salmon over 24 inches in length, coho salmon over 20 inches in length or pink, chum or sockeye salmon greater than 12 inches in length)~~) - August 16 through January 31 (~~(in the Westport boat basin only)~~) east of the Buoy 8 line. (b) Special daily limit ((A) of six salmon, not more than one of which may be an adult salmon, except release ((H) chum and wild coho salmon - September 1 through September 30: Waters of Catch Record Card Area 2-2 east of the Channel Marker 13 Line. Single point barbless hooks required.

Westport Boat Basin: Special daily limit of six salmon not more than four of which may be adult salmon - August 16 through January 31. Barbed hooks are allowed.

Twenty-Eighth Street Landing: Special daily limit of six salmon not more than one of which may be an adult salmon, except release chum and wild coho salmon - October 1 through October 31: Within posted markers at the Twenty-Eighth Street Landing at Ocean Shores. Single point barbless hooks required.

(4) Willapa Bay (Catch Record Card Area 2-1) Special daily limit of six salmon, not more than three of which may be adult salmon (~~(, defined as chinook salmon over 24 inches in length, coho salmon over 20 inches in length or pink, chum or sockeye salmon greater than 12 inches in length)~~) and

release wild coho salmon - August 16 through January 31. Single point barbless hooks required.

(5) Catch Record Card Area 3 - Special daily limit of two salmon - (~~July 24~~) August 3 through September (~~25~~) 24.

(6) Catch Record Card Area 4 - (a) Waters west of the Bonilla-Tatoosh line - (~~Special daily limit of two salmon, except release coho - July 21 through September 25~~) Closed to salmon angling the entire year. (b) Waters east of the Bonilla-Tatoosh line: (~~September 15 through July 31, closed; August 1 through August 29~~) Special daily limit of two salmon except release ((coho and) chinook((;)) salmon - August ((30)) 3 through ((August 31 - Special daily limit of two salmon except release chinook; September 1 through)) September ((14, catch and release only and terminal gear limited to surface flies only)) 24.

(7) Unless otherwise provided for in this section, minimum size 24 inches for chinook salmon and 16 inches for coho salmon. No minimum size for other salmon.

AMENDATORY SECTION (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

WAC 220-56-191 Puget Sound salmon—Saltwater seasons and daily limits. It is unlawful to fish for or possess salmon taken by angling for personal use except from the following Puget Sound areas, during the seasons, in the quantities, sizes, and for the species designated in this section and as defined in the daily limit codes in WAC 220-56-180. Puget Sound waters west of the mouth of the Sekiu River are managed concurrent with ocean waters as provided for in WAC 220-56-190. In all fisheries provided for in this section, chinook salmon minimum size 22 inches and no minimum size for other salmon.

(1) Catch Record Card Areas 5 and 6 -

(a) (~~Special daily limit of 2 salmon April 16 through June 15 except all chinook salmon greater than 30 inches in length and all coho salmon must be released.~~

(b) During the period April 16 through September 30 and November 1 through April 15, Dungeness Bay is closed to salmon angling - October 1 through October 31, special daily limit of two coho salmon.

(c) Special daily limit of 2 salmon June 16 through June 30, except release coho.

(d) July 1 through July 31 - Closed.

(e) August 1 through August 10 - Special daily limit of 2 salmon, except release coho and chinook.

(f) August ((14)) 1 through September ((15)) 7, special daily limit of 2 salmon, except release chinook and chum salmon.

((g)) (b) September ((16)) 8 through ((January 31)) September 30 - ((Closed)) Catch and release only.

((h) February) (c) November 1 through ((April 15)) November 30 - Special daily limit of 2 salmon of which no more than one may be a chinook salmon and release all coho salmon. ((Release all coho.))

(2) Catch Record Card Area 7:

(a) (~~October~~) July 1 through ((July 31)) August 15 - Special daily limit of 2 salmon except release chinook salmon. ((During the period April 16 through June 15 all chi-

~~nook salmon greater than 30 inches in length must be released.~~)

(b) August ~~((4))~~ 16 through September 30 - Special daily limit of ~~((4))~~ 2 salmon, not more than ~~((2))~~ 1 of which may be ~~((cho or))~~ a chinook salmon.

(c) October 1 through October 31 - Special daily limit of 2 salmon, except release chinook salmon.

(d) November 1 through November 30 - Special daily limit of 2 salmon, no more than one of which may be a chinook salmon.

(e) Notwithstanding the provisions of this subsection during the period ~~((October 1))~~ August 16 through ~~((December))~~ October 31 the special daily limit in Bellingham Bay is 4 salmon no more than ~~((2))~~ 1 of which may be chinook.

(3) Catch Record Card Area 8-1:

(a) ~~((September))~~ August 16 through ~~((April 15))~~ October 31 - Special daily limit of 2 salmon ~~((During the period September 16 through September 30))~~ except release chinook salmon.

(b) ~~((April 16 through August 15 - Closed.~~

~~(e) August 16))~~ November 1 through ~~((September 15))~~ November 30 - Special daily limit of ~~((4))~~ 2 salmon, not more than ~~((2))~~ 1 of which may be ~~((cho and release all))~~ a chinook salmon.

(4) Catch Record Card Area 8-2:

(a) August 1 through ~~((September 30))~~ October 31 - Special daily limit of 2 salmon except release chinook salmon ~~((taken outside the Tulalip Bay zone, defined as those waters adjacent to Tulalip Bay west of a line from Mission Point to Hermosa Point and within 2,000 feet from shore between the pilings at Old Bowers Resort northerly to a fishing boundary marker approximately 1.4 miles northwest of Hermosa Point.~~

~~(b) October 1 through May 31 - Special daily limit of 2 salmon.~~

~~(e) June 1 through July 31 - Closed).~~

(5) Catch Record Card Area 9:

~~(a) ((November 1 through June 30 - Special daily limit of 2 salmon.~~

~~(b) July 1 through July 31 - Closed.~~

~~(e))~~ August 1 through ~~((September 1))~~ October 31 - Special daily limit of 2 salmon except release chinook salmon and release chum salmon August 1 through October 15.

~~((d) September 2 through September 30 - Closed.~~

~~(e) October))~~ (b) November 1 through ~~((October 31))~~ November 30 - Special daily limit of 2 salmon ~~((except release cho))~~ not more than one of which may be a chinook salmon.

~~((f))~~ (c) Notwithstanding the provisions of this subsection, salmon fishing is permitted year-round from the Edmonds Fishing Pier - Special daily limit of 2 salmon ~~((and all salmon species may be retained))~~ not more than one of which may be a chinook salmon.

(6) Catch Record Card Area 10:

~~(a) ((October 16 through June 30 - Special daily limit of 2 salmon.~~

~~(b))~~ July 1 through October ~~((15))~~ 31 - Special daily limit of 2 salmon except release chinook salmon, and:

(i) During the period July 1 through September 15, Elliott Bay east of a line from ~~((Pier 91 to Duwamish Head))~~ Fourmile rock to Alki Point is closed.

(ii) During the period July 1 through October ~~((15))~~ 31, Shilshole Bay east of a line from Meadow Point to West Point is closed.

~~(iii) ((During the period July 1 through August 31, release chinook in waters north of a line from West Point to Skiff Point and in waters northeast of the Agate Pass Bridge.~~

~~(iv) During the period September 16 through October 15, release chinook in the Duwamish Waterway from the First Avenue South Bridge to an east west line through SW Hanford Street on Harbor Island.)~~ November 1 through November 30 - Special daily limit of 2 salmon, not more than one of which may be a chinook salmon.

~~((e))~~ (b) Notwithstanding the provisions of this subsection, salmon fishing is permitted year-round from the Elliott Bay public fishing pier at Terminal 86 and Seacrest Pier - Special daily limit of 2 salmon ~~((and all salmon species may be retained))~~ not more than one of which may be a chinook salmon.

(7) Catch Record Card Area 11 - May 1 through ~~((April))~~ November 30 - Daily limit of 2 salmon not more than one of which may be a chinook salmon.

(8) Catch Record Card Area 12:

~~(a) ((December 16 through July 15 - Special daily limit of 2 salmon.~~

~~(b) July 16 through September 30 - Special daily limit of 4 salmon, not more than 2 of which may be pink salmon and release all chinook and chum.~~

~~(e) October))~~ July 1 through October 15 - Special daily limit of 4 salmon, ~~((not more than 2 of which may be chinook and))~~ except release ((all)) chum and chinook salmon.

~~((d))~~ (b) October 16 through December ~~((15))~~ 31 - Special daily limit of 4 salmon, not more than ~~((two))~~ one of which may be a chinook salmon.

~~((e))~~ (c) Waters of the Hoodspout Hatchery Zone are managed separately as provided for in WAC 220-56-124.

~~((f))~~ (d) Notwithstanding the provisions of this subsection, salmon fishing is permitted year round while fishing from the Hood Canal Bridge fishing pier - Special daily limit of 2 salmon not more than one of which may be a chinook salmon.

(9) Catch Record Card Area 13 - May 1 through ~~((April 30))~~ December 31 - Daily limit of 2 salmon not more than one of which may be a chinook salmon.

(10) In the above waters there are specified closures as provided for in WAC 220-56-128 and 220-56-195. Additionally, there are gear and area restrictions at Shilshole Bay, the Duwamish Waterway, and Budd Inlet, and at Titlow Beach and the Edmonds underwater park and the Elliott Bay, Les Davis, and Des Moines public fishing piers. See specific sections in chapter 220-56 WAC for salmon angling restrictions at these locations.

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-56-195 Closed areas—Saltwater salmon angling. The following areas shall be closed to salmon angling during the times indicated:

(1) Skagit Bay: Those waters lying easterly of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, northerly of a line projected from Polnell Point to Rocky Point, northerly of the state Highway 532 Bridge between Camano Island and the mainland and south of a line between the south end of McGlenn Island and the light at the south end of Fidalgo Island (Qk Fl) at the south end of Swinomish Slough shall be closed to salmon angling April 16 through June 15.

(2) Bellingham Bay: Those waters of Bellingham, Samish and Padilla Bays southerly of a line projected from the most westerly point of Gooseberry Point to Sandy Point, easterly of a line from Sandy Point to Point Migley thence along the eastern shoreline of Lummi Island to Carter Point, thence to the most northerly tip of Vendovi Island thence to Clark Point on Guemes Island following the shoreline to Southeast Point on Guemes Island thence to March Point on Fidalgo Island and north of the Burlington Railroad Bridges at the north end of Swinomish Slough shall be closed to salmon angling April 16 through July 31.

(3) Carr Inlet:

(a) Those waters north of a line from Green Point to Penrose Point are closed to salmon angling April 16 through July 31.

(b) Those waters of Carr Inlet within 1,000 feet of the outer oyster stakes at the mouth of Minter Creek are closed to salmon angling April 16 through September 30.

(4) Dungeness Bay: Those waters westerly of a line from Dungeness Spit Light to the number 2 red buoy, and then to the Port Williams boat ramp are closed to salmon angling April 16 through September 30 and November 1 through April 15.

(5) Samish Bay: Those waters southerly of a line projected true east from Fish Point are closed to salmon angling August 1 through October 15.

(6) Columbia River Mouth Control Zone 1: Washington waters within Control Zone 1, which Control Zone is described as the ocean area surrounding the Columbia River mouth west of the Buoy 10 line and bounded by a line extending for 6 nautical miles due west from North Head along 46°18'00" N. latitude to 124°13'18" W. longitude, then southerly along a line of 167° true to 46°11'06" N. latitude and 124°11'00" W. longitude (Columbia River Buoy), then north-east along Red Buoy Line to the tip of the south jetty are closed to salmon angling at all times except open to fishing from the north jetty when adjacent waters north of the Control Zone are open to salmon angling or the Buoy 10 fishery is open.

(7) Commencement Bay: Those waters east of a line projected from the Sperry Ocean Dock to landfall below the Cliff House Restaurant on the north shore of Commencement Bay are closed April 16 through ~~(June 30)~~ July 31.

(8) Whidbey Island and mainland shores in Areas 5 and 6. Those waters of Catch Record Card Areas 5 and 6 within

3/4 mile of the shores of the mainland and Whidbey Island are closed to salmon angling August 1 through September 30.

(9) Rosario Strait: July 1 through September 30 the following areas are closed to salmon angling:

(a) Southeastern Rosario Strait (Deception Pass to Shannon Pt.) - Waters within 1500 feet of Fidalgo Island from the Initiative 77 marker northeast of Northwest Island to Biz Point; and waters of Burrows Bay inside a line from Biz Point to Williamson Rocks Buoy to the Dennis Shoal Buoy, to a point 1500 feet west of the Burrows Island Light, then northeast to Fidalgo Head; and waters within 1500 feet of Fidalgo Island from Fidalgo Head to Shannon Point.

(b) Southwestern Rosario Strait (east side of Lopez Island, Decatur Island, and James Island) - Waters within 1500 feet of Lopez Island bounded by a line running from Point Colville due south 1500 feet then northerly along the island, across Lopez Pass, and then northerly along Decatur Island within 1500 feet of shore to Fauntleroy Point, including waters within 1500 feet of James Island.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

WAC 220-56-199 Closed areas—Chinook salmon angling. ~~((Chinook only closures—None--))~~ East San Juan Islands - During the period August 16 through September 30, chinook release required south and east of the following line: A line running west from Sandy Point to Johnson Point at the easternmost tip of Sucia Island, then south to Point Thompson on northern Orcas Island, then southeast along Orcas Island around Lawrence Point following the shoreline southwest to Deer Point, then due south to Blakely Island, and south following the shoreline of Blakely Island to the southernmost point on Blakely Island, then across Thatcher Pass to Fauntleroy Point, and along the eastern shore of Decatur Island to the southernmost point on Decatur Island, across Lopez Pass and following the shore of Lopez Island to Point Colville, along the southern shoreline of Lopez Island to Iceberg Point, and from Iceberg Point northwest to Long Island, and then due south from Long Island to the intersection with the Area 6/7 boundary line. See Bellingham Bay Fishery for exception.

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-56-205 Hook rules—Nonbuoyant lures. It is unlawful to fish for or to possess salmon taken for personal use from freshwater unless the hooks used meet the requirements of this section:

(1) Nonbuoyant lure restriction: In the following waters and during the periods shown, it is unlawful to use a nonbuoyant lure that has more than one single hook or has a hook measuring more than 3/4 inch point to shank:

Area	Time period
Naselle River (including all forks)	
Hwy 101 Bridge to ((Hwy 4 Bridge)) <u>North Fork</u>	((July 1-January 31)) <u>September 1-November 30</u>
((Hwy 4 Bridge to Big Hill Bridge	October 16-January 31))
Willapa River	
Mouth to Hwy 6 Bridge	October 1-November 30
Hwy 6 Bridge to Fork Creek	((October 16-January 31)) <u>September 1-November 30</u>
<u>Upstream from Fork Creek</u>	<u>September 1-October 31</u>
<u>Willapa River (South Fork)</u>	<u>September 1-November 30</u>
Humtulsips River	September 1-November 30
Satsop River (including all forks)	September 1-November 30
Nemah River-North Fork	October 1-November 30
Nemah River-Middle Fork	September 1-November 30
Dungeness and Gray Wolf Rivers	August 1-October 15
Kennedy Creek	October 1-December 31
Nooksack River-South	
Fork Mouth to Skookum Creek	August 1-October 31
((Nooksack River-South	
Fork Upstream from Skookum Creek	June 1-September 30))
Big Quilcene River	August 1-December 31
Samish River	August 1-December 31
Stillaguamish River (including all forks)	August 1-November 30
Whatcom Creek	August 1-December 31
Cowlitz River	
From Mill Creek to Barrier Dam	August 1-October 31
Kalama River	
Mouth to temporary rack	September 1-October 31
Lewis River-North Fork	
From ((lower Cedar	
Creek Boat Ramp to Colvin Creek)) <u>Johnson Creek to</u>	
<u>Merwin Dam</u>	April 1-October 31
Washougal River	
Downstream of Salmon Falls Bridge	September 1-October 31
Icicle River	
From Leavenworth Federal Fish Hatchery to mouth	May 8-June 30
Wenatchee River	
From mouth of Icicle River to Highway 2 Bridge	May 8-June 15
Skagit River (and tributaries)	
Upstream of Gilligan Creek	July 1-November 30
Tokol Creek	
From mouth to posted cable markers	December 1-March 31
Capitol Lake	August 1-November 30
Deschutes River	
<u>From 400 feet below lowest Tumwater Falls fish</u>	
<u>ladder to the Old Hwy 99 Bridge on Capitol Boulevard</u>	August 1-November 30
Elochoman River	September 1- ((November 30)) <u>October 31</u>
Grays River	September 1- ((November 30)) <u>October 31</u>
Green/Duwamish River	
mouth to ((Highway 164)) <u>State Route 167 Bridge</u>	August 1-November 30

Area	Time period
McAllister Creek	August 1-November 30
Nisqually River	August 1-November 30
Puyallup River	
mouth to Carbon River	August 1-November 30
Skykomish River (including all forks)	August 1-November 30
Snohomish River	August 1-November 30
White/Stuck River	October 1-November 30
Toutle River-North Fork	
Highway 504 Bridge near Kidd Valley to mouth of Green River	September 1-October 31
Green River (Cowlitz Co.)	
mouth to 1500 feet below hatchery rack	September 1-October 31
<u>Soos Creek</u>	<u>September 1-October 31</u>

(2) No leads, weights or sinkers may be attached below or less than 12 inches above a buoyant lure.

(3) All hooks must be attached within three inches of the bait or lure.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

WAC 220-57-120 Bear River. Daily Limit A except release wild coho - July 1 through January 31: Downstream from the lime quarry road to Highway 101 Bridge (a distance of approximately 2 stream miles). Single point barbless hooks required.

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-57-130 Bogachiel River. Daily Limit A (~~except release adult coho salmon~~) - July 1 through November 30: Downstream from the Highway 101 Bridge. (~~Single point barbless hooks required.~~)

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-57-140 Chehalis River. (1) Daily Limit A - May 16 through July 15: Downstream from the high bridge on the Weyerhaeuser 1000 line approximately 400 yards downstream of Roger Creek.

(2) Special daily limit ((A)) of six salmon except no more than one adult salmon may be retained and release all chum and release wild coho - September ((+)) 16 through September 30 (~~except release adult coho salmon~~): Downstream from the ((Porter)) high bridge to the Fuller Bridge. Single point barbless hooks required.

(3) Special daily limit of six salmon except no more than one adult salmon may be retained and release chum and wild coho salmon - October 1 through October 31: Downstream from the high bridge to the Porter Bridge. Single point barbless hooks required.

(4) Special daily limit of six salmon except no more than one adult salmon may be retained and release chinook, chum

and wild coho salmon - October 1 through October 31: Downstream from the Porter Bridge. Single point barbless hooks required.

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-57-155 Clearwater River (Jefferson County). Daily Limit A except release adult coho salmon - ((June)) September 1 through November 30: Downstream from the mouth of the Snahapish River. Single point barbless hooks required.

AMENDATORY SECTION (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

WAC 220-57-160 Columbia River. (1) Rocky Reach Dam to Priest Rapids Dam: Daily Limit A - September 16 through December 31.

(2) Priest Rapids Dam to the Vernita Bridge: Daily Limit A - August 16 through October 31; Daily Limit C - November 1 through December 31.

(3) Vernita Bridge to old Hanford townsite wooden power line towers: Daily Limit A - August 16 through October 22.

(4) Old Hanford townsite wooden power line towers to Highway 395 Bridge connecting Pasco and Kennewick: Daily Limit A - August 16 through December 31.

(5) Highway 395 Bridge to McNary Dam: Daily Limit A - August ((+)) 1 through December 31. It is unlawful to take or possess sockeye or chum salmon taken downstream of the Highway 395 Bridge to McNary Dam.

(6) McNary Dam to Interstate 5 Bridge: Daily Limit A - August 1 through December 31. It is unlawful to take or possess sockeye or chum salmon taken downstream from McNary Dam to the Interstate 5 Bridge.

(7) Interstate 5 Bridge to the Megler-Astoria Bridge: Daily Limit A - August 1 through March 31 except release all coho October 1 through March 31. During September, it is unlawful to fish for or possess salmon taken for personal use in those waters of the Columbia River north of a line from Abernathy Point Light to a boundary marker east of the

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mouth of Abernathy Creek. It is unlawful to take or possess sockeye ((~~or~~)) chum or wild coho salmon taken downstream from the Interstate 5 Bridge to the Megler-Astoria Bridge.

(8) Megler-Astoria Bridge to the Buoy 10 Line:

(a) Daily Limit F - August ((+)) 8 through ((~~September 30~~)) August 23.

(b) Daily Limit A - ((~~October~~)) January 1 through March 31.

(c) It is unlawful to take or possess sockeye ((~~or~~)) chum or wild coho salmon taken downstream from the Megler-Astoria Bridge to the Buoy 10 Line.

((~~(8)~~)) (9) North Jetty (mouth of Columbia River): Open to angling from the bank only when state waters north of the control zone are open to salmon angling. During such periods fishing from the north jetty is open 7 days per week and the daily limit shall be the same as for the ocean waters when open. Also open to angling from the bank only concurrent with the Buoy 10 fishery. Daily limit and gear requirement will be identical with those in the Buoy 10 fishery. It is unlawful to take or possess sockeye or chum salmon taken from the North Jetty.

AMENDATORY SECTION (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

WAC 220-57-175 Cowlitz River. (1) Daily Limit A except release chum ((~~salmon and release chinook salmon greater than 28 inches in length caught upstream from Blue Creek to Mill Creek October 1 through December 31 and adult chinook salmon minimum size 28 inches from Mill Creek to the Barrier Dam October 1 through December 31~~)) and wild coho salmon - ((~~August~~)) January 1 through April 30: Downstream from fishing boundary markers approximately 400 feet below barrier dam structures at the Cowlitz Salmon Hatchery Barrier Dam ((~~except closed to salmon angling from the markers to the mouth of Mill Creek when fishing from the south shore August 1 through October 15~~)).

(2) ((~~Special daily limit of one salmon except release chum salmon - May 1 through July 31: Downstream from I-5 Bridge.~~

(~~3~~)) Salmon angling from boats is prohibited the entire year in designated open waters between the barrier dam and a line from the mouth of Mill Creek to a boundary marker on the opposite shore.

((~~(4)~~)) (3) Daily Limit A except minimum size of 8 inches - open the entire year: From the confluence of the Muddy Fork and Ohanapecosh rivers downstream to Scaneva Lake (Cowlitz Falls Reservoir).

AMENDATORY SECTION (Amending Order 97-202, filed 9/25/97, effective 10/26/97)

WAC 220-57-187 Deep River (Wahkiakum County). Deep River (Wahkiakum County) - Daily Limit A - August 1 through December 31: ((~~Upstream~~)) Downstream from ((~~mouth to~~)) town bridge.

AMENDATORY SECTION (Amending Order 91-41, filed 6/27/91, effective 7/28/91)

WAC 220-57-195 Dewatto Creek. ((~~Closed to salmon angling the entire year.~~)) Special daily limit of two coho salmon - September 16 through October 31: Downstream from the Dewatto-Holly Road Bridge.

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-57-200 Dickey River. Special daily limit ((A except release adult coho)) of two salmon - July 1 through November 30: Downstream of the mouth of east fork of the Dickey River to the National Park boundary. ((Single point barbless hooks required.))

AMENDATORY SECTION (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

WAC 220-57-235 Elochoman River. ((~~(1) Daily Limit A except release chum salmon - September 1 through September 30: Downstream from the mouth of the west fork.~~

(~~2~~) Daily Limit A except release chum salmon and release chinook salmon greater than 28 inches taken upstream from the Foster Road Bridge - October 1 through December 31: Downstream from the mouth of the west fork.

(~~3~~) The following waters are closed to salmon angling at all times:

(a) From a point 100 feet above the upper hatchery rack to the Elochoman Salmon Hatchery Bridge located approximately 400 feet below the upper hatchery rack.

(b) From the department of fish and wildlife's temporary rack downstream to Foster (Risk) Road Bridge while this rack is installed in the river.

(c) Between points 50 feet above and 100 feet below the outlet pipes from the most downstream Elochoman Salmon Hatchery rearing pond and extending 30 feet out from the south bank of the river.)) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-57-250 Grays River. ((~~Daily Limit A except release all chum salmon and release chinook salmon greater than 28 inches in length caught upstream of the covered bridge October 1 through October 31 - September 1 through October 31: Open from mouth to mouth of South Fork Grays River. West Fork Grays River~~)) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-57-255 Green River (Cowlitz County). ((~~Daily Limit A except release chinook salmon over 28 inches in length October 1 through November 30 - September 1 through November 30: Mouth to 1000 Road Bridge.~~)) Closed ((waters from 1,500 feet below salmon hatchery rack

upstream to the water intake at the upper end of the hatchery grounds)) to salmon angling the entire year.

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-57-270 Hoh River. (1) Daily Limit C - May 16 through August 31 except closed Monday and Tuesday of each week: Downstream from the mouth of the south fork Hoh to the Morgan's Crossing boat launch, including Olympic National Park.

(2) Special daily limit ((A)) of six salmon except no more than one adult salmon may be retained - May 16 through August 31 except closed Monday and Tuesday of each week: Downstream from the Morgan's Crossing boat launch to the Highway 101 Bridge.

(3) Special daily limit of six salmon except no more than one adult salmon may be retained - May 16 through August 31 except closed Monday and Tuesday of each week: Downstream from the Highway 101 Bridge.

(4) Daily Limit A (~~except release adult coho salmon~~) - ~~(May 16)~~ September 1 through November 30: Downstream from the Highway 101 Bridge. ~~((Single point barbless hooks required.))~~

AMENDATORY SECTION (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

WAC 220-57-290 Icicle River. ~~((Special daily limit of one salmon - May 16 through June 30.))~~ Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

WAC 220-57-310 Kalama River. (1) ~~((Daily Limit A except release chum salmon - June 1 through December 31: From Summers Creek upstream to the 6420 Road (approximately one mile above the gate at the end of the county road) fly fishing only.~~

~~(2) Daily Limit A except release chum salmon - open the entire year: Downstream from the mouth of Summers Creek to the markers approximately 1,000 feet above the Kalama Falls (Upper) Salmon Hatchery.~~

~~(3)) Daily Limit A except release chum ((salmon)) and ((release chinook)) wild coho salmon ((greater than twenty-eight inches in length during the period October 1 through December 31 upstream from the natural gas pipeline)) - ((August)) January 1 through April 30: Downstream from a point 1,000 feet below the fishway at the upper salmon hatchery ~~((to the Modrow Bridge, with the following special gear restrictions: During the period September 1 through October 31, that portion of the Kalama River from markers at the Lower Kalama Hatchery pumphouse (intake) downstream to the natural gas pipeline crossing at Mahaffey's Campground fly fishing only)).~~~~

~~((4) Daily Limit A except release chum salmon - August 1 through April 30: Downstream from Modrow Bridge, except during the time the department of fish and wildlife's temporary rack is installed just below the Modrow Bridge,~~

that portion of the river from the temporary rack downstream to a set of markers 1,500 feet below the temporary rack is closed to salmon angling and August 1 through October 15 those waters downstream from the temporary rack are closed to salmon angling.

~~(5))~~ (2) Fishing from boats with motors is prohibited at all times in waters upstream of the Modrow Bridge.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

WAC 220-57-315 Klickitat River. ~~((1))~~ Special daily limit ((A)) of one salmon - ~~((August))~~ June 1 through ~~((January))~~ July 31: Downstream from ~~((the Fisher Hill Bridge approximately 1 1/2 miles above the mouth.~~

~~(2) Daily Limit A - August 1 through November 30: Downstream from))~~ fishing boundary markers at the downstream end of the Klickitat River Salmon Hatchery ~~((grounds to a point 400 feet above the No. 5 Fishway)).~~ Release adult chinook salmon upstream from the No. 5 Fishway.

AMENDATORY SECTION (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

WAC 220-57-319 Lewis River. (1) Mainstem - Daily Limit A except release chum and wild coho salmon ~~((and during the period May 1 through July 31 the daily limit is one salmon and release chinook August 1 through December 31 - Open entire year))~~ January 1 through April 30: Downstream from east fork to mouth.

(2) East fork: Closed waters.

(3) North fork:

(a) Daily Limit A except release chum and wild coho salmon ~~((and during the period May 1 through July 31 the daily limit is one salmon and release chinook salmon August 1 through December 31))~~ - January 1 through ~~((December 31))~~ April 30: Downstream from ~~((Johnson Creek))~~ the overhead powerlines downstream from Merwin Dam.

~~((b) Daily Limit A except release chum salmon and release chinook salmon August 1 through December 31 - August 1 through April 30: Downstream from the mouth of Colvin Creek (approximately 1/4 mile upstream of the salmon hatchery) to Johnson Creek, except that))~~ At all times it is unlawful to take, fish for or possess salmon taken for personal use from waters shoreward of the cable, buoy, and corline located at the mouth of the Lewis River Salmon Hatchery Fishway. ((During the period August 16 through October 15, bank fishing only.

~~(c) Daily Limit A except release chum salmon and release chinook salmon August 1 through September 30 - August 1 through September 30 and January 1 through April 30: Downstream from the overhead powerlines downstream from Merwin Dam to Colvin Creek.))~~

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

WAC 220-57-335 Naselle River. (1) Daily Limit A except release wild coho salmon - July 1 through January 31:

Downstream from the Highway 4 Bridge to Highway 101 Bridge. Single point barbless hooks required.

(2) Daily Limit A except release wild coho salmon - October 16 through January 31: Downstream from the ~~((Big Hi))~~ Crown Mainline (Salme) Bridge to the Highway 4 Bridge. Single point barbless hooks required.

(3) Waters within 400 feet both upstream and downstream from the entrance to the Naselle Salmon Hatchery Attraction Channel are closed to salmon angling at all times.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

WAC 220-57-340 Nemah River. (1) Middle Nemah, Daily Limit A except release wild coho salmon - July 1 through January 31: Downstream from the department of natural resources bridge on the Middle Nemah A Line Road. Single point barbless hooks required.

(2) North Nemah - Daily Limit A except release wild coho salmon - October 1 through January 31: Downstream from lower bridge on dead end Lower Nemah Road to the mouth. Single point barbless hooks required.

(3) South Nemah - Daily Limit A except release wild coho salmon - July 1 through January 31: Downstream from the confluence of the Middle Nemah to the mouth. Single point barbless hooks required.

AMENDATORY SECTION (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

WAC 220-57-350 Nooksack River. (1) Daily Limit A except up to 4 adult salmon may be retained provided no more than 2 are chinook - September 1 through December 31: Downstream from the confluence of north and south forks to Lummi Indian Reservation boundary.

(2) North Fork - Daily Limit A - October 1 through ~~((December 31))~~ November 30: Downstream from Maple Creek to mouth of north fork.

(3) South Fork - Daily Limit A - October 1 through ~~((December 31))~~ November 30: Downstream from the Saxon Bridge to mouth of south fork. Selective gear rules.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

WAC 220-57-355 North River. Daily Limit A except release wild coho salmon - July 1 through January 31 - downstream from the mouth of Salmon Creek. Single point barbless hooks required.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

WAC 220-57-365 Palix River. Daily Limit A except release wild coho salmon - July 1 through January 31: Downstream from the confluence of the south and middle forks to the Highway 101 Bridge. Single point barbless hooks required.

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-57-385 Quillayute River. Daily Limit A ~~((except release adult coho salmon))~~ - March 1 through November 30: Downstream from the confluence of the Soulduck and Bogachiel rivers including Olympic National Park waters. ~~((Single point barbless hooks required.))~~

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-57-425 Skagit River. ~~((1) Special daily limit of 4 salmon not more than 2 of which may be coho salmon and release all chinook salmon - August 16 through October 31: Downstream from the mouth of the Cascade River. Only one single barbless hook may be used and bait is prohibited upstream from the Sauk River.~~

~~((2))~~ Special daily limit of 2 salmon except release coho salmon - November 1 through December 31: Downstream from the mouth of the Cascade River.

~~((3) All waters of the Skagit River between a line projected across the thread of the river 200 feet above the east bank of the Baker River and a line projected across the thread of the river 200 feet below the west bank of the Baker River are closed.)~~

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-57-430 Skokomish River. (1) Special daily limit of ~~((six))~~ four salmon ~~((, not more than four of which may be adult salmon defined as chinook salmon 24 inches in length or greater, coho salmon 16 inches in length or greater, or other salmon 12 inches in length or greater, and))~~ release ~~((all adult))~~ chinook and chum salmon - September ~~((20))~~ 16 through ~~((December))~~ October 15: Downstream from the Highway 101 Bridge.

(2) Special daily limit of four salmon except release chinook salmon - October 16 through December 15: Downstream from the Highway 101 Bridge.

NEW SECTION

WAC 220-57-432 Skookumchuck River. Special daily limit of six salmon except no more than one adult salmon may be retained and release chinook, chum and wild coho salmon - October 16 through November 15: Downstream from 400 feet below the department's steelhead rearing pond at the base of Skookumchuck Dam. Single point barbless hooks required.

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-57-435 Skykomish River. ~~((1))~~ Special daily limit of two salmon except release chinook ~~((salmon))~~ and pink salmon - ~~((September))~~ October 1 through December 31: Downstream from the confluence of north and south forks.

~~((2) During even numbered years it is unlawful to retain pink salmon.))~~

AMENDATORY SECTION (Amending Order 97-202, filed 9/25/97, effective 10/26/97)

WAC 220-57-450 Snohomish River. (1) Special daily limit of two salmon except release chinook ((salmon)) and pink salmon - ((September)) October 1 through December 31: Downstream from confluence of Skykomish and Snoqualmie rivers.

(2) During even-numbered years it is unlawful to retain pink salmon.

AMENDATORY SECTION (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

WAC 220-57-455 Snoqualmie River. (1) Special daily limit of two salmon except release chinook ((salmon)) and pink salmon - ((September)) October 1 through December 31: Downstream from Snoqualmie Falls. Selective gear rules September 1 through November 30.

(2) During even-numbered years it is unlawful to retain pink salmon.

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-57-460 Sol Duc River. Daily Limit A ((except release adult coho salmon)) - March 1 through November 30: Downstream from the concrete pump station at the Sol Duc Hatchery. ((Single point barbless hooks required.))

NEW SECTION

WAC 220-57-462 Soos Creek. Special daily limit of two salmon - September 1 through October 31: Downstream from the bridge near the hatchery residence. Only one single hook may be used.

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-57-465 Stillaguamish River. ~~(((1) Special daily limit of 4 pink salmon—August 16 through September 30: Downstream from the confluence of the north and south forks except waters of Cook Slough are closed at all times from the water flow control structure to a point 400 feet downstream.~~

~~((2))~~ Special daily limit of two chum salmon - November 1 through December 31: Downstream from confluence of north and south forks except waters of Cook Slough are closed at all times from the water flow control structure to a point 400 feet downstream. From confluence to Warm Beach-Stanwood Highway - selective gear rules.

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-57-480 Toutle River—North Fork. ~~((Daily Limit A except release chinook salmon over 28 inches in length October 1 through November 30—September 1 through November 30: Highway 504 Bridge to mouth of Green River.))~~ Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

WAC 220-57-495 Washougal River. Daily Limit A except release all chum and wild coho salmon ~~((in all areas and chinook salmon over 28 inches in length upstream from the mouth of Little Washougal River during the period October 1 through December 31))~~ - ((August)) January 1 through March 15: Downstream from bridge at Salmon Falls to mouth.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

WAC 220-57-505 White Salmon River. (1) Special daily limit ((A) of one salmon - ((August)) May 1 through ~~((September 30))~~ June 15: ~~((Upstream))~~ Downstream from ~~((the mouth))~~ 400 feet below Condit Dam to the power house below Condit Dam.

(2) Daily Limit ~~((C))~~ A - ~~((October 1))~~ November 16 through ~~((December 31))~~ April 30: ~~((Upstream))~~ Downstream from ~~((the mouth))~~ 400 feet below Condit Dam to the power house below Condit Dam.

(3) Special daily limit ((A) of one salmon - ~~((November 16))~~ May 1 through ~~((December 31))~~ July 31: Downstream from ~~((a line 400 feet downstream from Condit Dam to))~~ the power house below Condit Dam.

(4) Daily Limit A - ~~((January))~~ August 1 through April 30 except release adult salmon October 1 through December 31: Downstream from ~~((a line 400 feet downstream from))~~ the power house below Condit Dam.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

WAC 220-57-510 Willapa River. (1) Daily Limit A except release wild coho salmon - July 1 through January 31: Downstream from Highway 6 Bridge, approximately 2 miles below the mouth of Trap Creek, to the department boat launch in South Bend. Single point barbless hooks required.

(2) Daily Limit A except release wild coho salmon - October 16 through January 31: Downstream from mouth of Fork Creek to the Highway 6 Bridge approximately 2 miles below the mouth of Trap Creek. Single point barbless hooks required.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

WAC 220-57-515 Wind River. (1) Special daily limit of one salmon - May 1 through June 15: Downstream from 400 feet below Shipherd Falls.

PERMANENT

(2) Daily Limit A - August 1 through October 31: Downstream from the Burlington Northern Railroad Bridge to the mouth.

AMENDATORY SECTION (Amending WSR 97-18-035, filed 8/27/97, effective 9/27/97)

WAC 220-57-525 Wynoochee River. Special daily limit ((A-except)) of six salmon except no more than one adult salmon may be retained, and release ((adult) chum and wild coho salmon - September ((+)) 16 through October 31: Downstream from the 7400 line bridge upstream of the mouth of Schafer Creek. Single point barbless hooks required.

AMENDATORY SECTION (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

WAC 232-28-619 Washington game fish—Exceptions to state-wide rules. (1) County freshwater exceptions to state-wide rules:

(a) Adams and Grant counties: All seasons in specific freshwater exceptions to state-wide rules apply to inlet and outlet streams of named lakes in Grant and Adams counties.

(b) Adams, Douglas, Franklin, Grant, and Okanogan counties, except Zosel Dam (Okanogan River): Lawful to fish to base of all dams.

(c) Benton County: Rivers, streams and beaver ponds open year around.

(d) Ferry and Lincoln counties: Except those tributaries listed under specific water exceptions to state-wide rules, all tributaries to Lake Roosevelt between Grand Coulee Dam and the State Highway 25 Bridge at Northport except Barnaby and Nancy creeks: Trout: Daily limit 5, no minimum size.

(e) Kitsap County and Mason County on Tahuya Peninsula west of Belfair-Bremerton Highway (S.R. 3): Beaver ponds: Last Saturday in April through October 31 season. Trout: No minimum length.

(2) Specific freshwater exceptions to state-wide rules:

Aberdeen Lake (Grays Harbor County): Last Saturday in April through October 31 season.

Abernathy Creek (Cowlitz County):

From mouth to a point five hundred feet downstream from salmon hatchery: June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cut-throat. Release all steelhead June 1 through October 31.

From Abernathy Falls to posted markers five hundred feet downstream from salmon hatchery: Closed waters.

Ahtanum Creek, including North and Middle Forks (Yakima County): Selective gear rules. North Fork from Grey Rock Trailhead Bridge crossing to Shellneck Creek: Closed waters.

Alder Creek (Cowlitz County): Closed waters.

Aldrich Lake (Mason County): Last Saturday in April through October 31 season.

Aldwell Lake (Clallam County): Last Saturday in April through October 31 season. Selective gear rules except fishing from a floating device equipped with a motor permitted. Trout: Daily limit two, minimum length twelve inches.

Aeneas Lake (Okanogan County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited.

Alexander Lake (Kitsap County): Closed waters.

Alkali Lake (Grant County): Crappie: Not more than five greater than eight inches in length. Bluegill: Not more than five greater than six inches in length.

Alta Lake (Okanogan County): Last Saturday in April through September 30 season.

Amber Lake (Spokane County): Last Saturday in April through September 30 season. Selective gear rules, except electric motors allowed. Trout: Daily limit two, minimum length fourteen inches; release rainbow trout missing adipose fin. Additional season October 1 through November 30. Selective gear rules. All species: Release all fish.

American Lake (Pierce County): Chumming permitted.

American River (Yakima County): Selective gear rules.

Anderson Lake (Jefferson County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. From September 1 through October 31, selective gear rules and all species: Release all fish.

Armstrong Lake (Snohomish County): Last Saturday in April through October 31 season.

Asotin Creek, mainstem and forks (Asotin County): Closed to fishing for steelhead.

From SR 129 Bridge upstream to the forks: Lawful to fish up to base of Headgate Dam.

North Fork from mouth upstream to USFS boundary: Selective gear rules.

North Fork from USFS boundary upstream and all other tributaries: Closed waters.

South Fork and tributaries: Closed waters.

B.C. Mill Pond (Stevens County): Last Saturday in April through October 31 season.

Bachelor Creek (Yakima County): Year around season. Trout: Daily limit five, no minimum length.

Badger Lake (Spokane County): Last Saturday in April through September 30 season.

Baker Lake (Whatcom County): Last Saturday in April through October 31 season, except closed waters in an area two hundred feet in radius around the pump discharge at the south end of the lake. Chumming permitted. Trout: Minimum length six inches and maximum length eighteen inches.

Baker River (Skagit County): From the mouth to Baker River fish barrier dam: Closed waters June 1 through August 31.

Ballinger Lake (Snohomish County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Barnaby Slough (Skagit County): Closed waters.

Battle Ground Lake (Clark County): Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than 2 trout 20 inches or greater in length may be retained.

Bay Lake (Pierce County): Last Saturday in April through October 31 season.

Bayley Lake (Stevens County): Last Saturday in April through July 4 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one, minimum length fourteen inches. Additional season, July 5 through October 31. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish. Inlet stream: Closed waters.

Bear Creek (Yakima County), tributary to South Fork Tieton River: From the mouth to the falls (approximately 3/4 mile): Closed waters.

Bear Lake (Spokane County): Juveniles and holders of free licenses only.

Bear River (Pacific County): June 1 through last day in February season. Single point barbless hooks required July 1 through January 31 downstream from the Lime Quarry Road. Trout: Minimum length fourteen inches.

Bearpaw Lake (Whatcom County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily and possession limit one, minimum length eighteen inches.

Beaver Creek (Thurston County): Selective gear rules. Trout: Minimum length twelve inches.

Beaver Creek (tributary to Elochoman River) (Wahkiakum County): Closed waters.

Beaver Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Beaver Lake (King County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Beda Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Beehive (Lake) Reservoir (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Bennington Lake (Mill Creek Reservoir) (Walla Walla County): Fishing from a floating device equipped with an internal combustion motor prohibited.

Benson Lake (Mason County): Last Saturday in April through October 31 season.

Berry Creek (tributary to Nisqually River) (Lewis County): Selective gear rules.

Big Bear Creek (tributary of Sammamish River) (Snohomish/King counties): Closed waters.

Big Beaver Creek (Whatcom County):

From closed water markers on Ross Lake upstream one-quarter mile: Closed waters.

From one-quarter mile markers upstream, including tributary streams, and beaver ponds that are tributary to Big Beaver Creek: July 1 through October 31 season. Selective gear rules. All species: Release all fish.

Big Beef Creek (Kitsap County): June 1 through October 31 season. Trout: Release all cutthroat trout.

Big Four Lake (Columbia County): March 1 through October 31 season. Fly fishing only. Fishing from any floating device prohibited. Trout: Daily limit two.

Big Lake (Skagit County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Big Meadow Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Big River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Big Twin Lake (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules except electric motors permitted. Trout: Daily limit one.

Bird Creek (Klickitat County): Trout: Daily limit five.

Black Lake (Lower Wheeler Reservoir) (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Black Lake (Okanogan County): Selective gear rules.

Black Lake (Pacific County): Last Saturday in April through October 31 season.

Black Lake (Stevens County): Last Saturday in April through October 31 season.

Black River (Thurston County), from mouth to Black Lake and including all tributaries west of Interstate Highway 5, including Waddell Creek, Mima Creek, Dempsey Creek: Selective gear rules. Trout: Minimum length twelve inches. Release wild cutthroat.

Blockhouse Creek (Klickitat County): Trout: Daily limit five.

Bloodgood Creek (Klickitat County): Trout: Daily limit five.

Blooms Ditch (Thurston County): Selective gear rules. Trout: Minimum length twelve inches. Release wild cutthroat.

Blue Creek (Lewis County), from mouth to Spencer Road: Closed waters.

Blue Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Blue Lake (Cowlitz County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Blue Lake (Grant County): Last Saturday in April through September 30 season.

Blue Lake (near Sinlahekin) (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules, except electric motors allowed. Trout: Daily limit one.

Blue Lake (near Wannacut Lake) (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules, except electric motors allowed. Trout: Daily limit one.

Bobcat Creek and Ponds (Adams County): March 1 through September 30 season.

Bogachiel River (Clallam County), from mouth to National Park boundary: June 1 through April 30 season. December 1 through April 30, selective gear rules from Highway 101 to National Park boundary. Trout: Minimum length fourteen inches. December 1 through April 30, mouth to Highway 101, one wild steelhead per day may be retained.

Bonaparte Lake (Okanogan County): Trout: No more than one over twenty inches in length may be retained.

Bosworth Lake (Snohomish County): Last Saturday in April through October 31 season.

Boundary Creek (Clallam County): Closed waters.

Bowman Creek (Klickitat County): Trout: Daily limit five.

Box Canyon Creek (Kittitas County), from mouth to bridge on USFS Road No. 4930: Closed waters.

Boxley Creek (North Bend) (King County), from its mouth to the falls located at approximately river mile 0.9: Closed waters.

Boyle Lake (King County): Last Saturday in April through October 31 season. The inlet and outlet streams to Boyle Lake are closed waters.

Bridges Lake (King County): Last Saturday in April through October 31 season. The inlet and outlet streams to Bridges Lake are closed waters.

Brookies Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Browns Lake and inlet streams (Pend Oreille County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with an internal combustion motor prohibited.

Buck Lake (Kitsap County): Last Saturday in April through October 31 season.

Buckskin Creek and tributaries (Yakima County), from mouth to the west boundary of Suntides Golf Course: Closed waters.

Bumping Lake (Reservoir) (Yakima County): Chumming permitted. Trout: Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Bumping River (Yakima County):

From mouth to Bumping Reservoir: Lawful to fish to base of Bumping Dam. Selective gear rules June 1 through October 31. Whitefish: Additional December 1 through March 31 season. Terminal gear limited to one single barbless hook. Release all fish other than whitefish.

Burbank Slough (Walla Walla County): Fishing from any floating device prohibited.

Burke Lake (Grant County): March 1 through July 31 season.

Burley Creek (Kitsap County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Butter Creek (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Buttermilk Creek, including East and West Forks (Okanogan County): Selective gear rules. Trout: Maximum length twenty inches.

Cady Lake (Mason County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: Daily limit two.

Cain Lake (Whatcom County): Last Saturday in April through October 31 season.

Calawah River (Clallam County), from mouth to forks: June 1 through April 30 season. December 1 through April 30, selective gear rules from Highway 101 to forks. Trout: Minimum length fourteen inches. December 1 through April 30, mouth to Highway 101, one wild steelhead per day may be retained.

Calawah River, South Fork (Clallam County) from mouth to National Park boundary: June 1 through last day in February season. December 1 through last day in February, selective gear rules. Trout: Minimum length fourteen inches.

Caldwell Lake (Pend Oreille County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: Daily limit two, minimum length twelve inches.

Caliche Lakes, Lower, Upper and West (Grant County): March 1 through July 31 season.

Calispell Creek (Calispell River) (Pend Oreille County):

From mouth to Calispell Lake: Year around season.

From Calispell Lake upstream to source: Selective gear rules.

Calligan Lake (King County): June 1 through October 31 season. All tributary streams, and the upper third of the outlet are closed waters.

Campbell Creek (Mason County): Closed waters.

Campbell Lake (Okanogan County): September 1 through March 31 season.

Campbell Lake (Skagit County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Canyon Creek (Klickitat County): Trout: Daily limit five.

Canyon Creek (Mason County): Closed waters.

Canyon Creek (S.F. Stillaguamish River) (Snohomish County), mouth to forks: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Capitol Lake (Thurston County), from its outlet to a point four hundred feet below the lowest Tumwater Falls (Deschutes River) fish ladder: Closed waters: Percival Cove, west of a set of markers on the western shoreline of the south basin of Capitol Lake. June 1 through July 31 season. Trout: Daily limit five, minimum length eight inches. Additional August 1 through March 31 season. Trout: Daily limit two, minimum length fourteen inches.

Carbon River (Pierce County), from its mouth to the Highway 162 Bridge: June 1 through January 31 season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through January 31. Additional February 1 through March 31 season. Trout: Minimum length fourteen inches.

Carlisle Lake (Lewis County): Last Saturday in April through last day in February season. Fishing from a floating device equipped with an internal combustion motor prohibited. Bass: Minimum length fourteen inches.

Carl's Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Carney Lake (Pierce County): Last Saturday in April through June 30 and September 1 through October 31 seasons. Fishing from a floating device equipped with an internal combustion motor prohibited.

Carson Lake (Mason County): Last Saturday in April through October 31 season.

Cascade Lake (Grant County): March 1 through July 31 season.

Cascade Lake (San Juan County): Last Saturday in April through October 31 season.

Cascade River (Skagit County):

From the Rockport-Cascade Road Bridge upstream: June 1 through last day in February season. Trout: Trout except Dolly Varden/Bull Trout, minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

From the mouth to the Rockport-Cascade Road Bridge: October 1 through last day in February season. Trout: Trout except Dolly Varden/Bull Trout, minimum length fourteen

inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

Cases Pond (Pacific County): Last Saturday in April through October 31 season. Juveniles only.

Cashmere Pond (Chelan County): Juveniles only.

Cassidy Lake (Snohomish County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Castle Lake (Cowlitz County): Selective gear rules. Trout: Daily limit one, minimum length sixteen inches.

Cattail Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Cavanaugh Lake (Skagit County): Chumming permitted.

Cedar Creek (tributary of N.F. Lewis) (Clark County), from mouth to junction of Chelatchie Creek: June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Cedar Creek (Jefferson County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Cedar Creek (Okanogan County), from mouth to Cedar Falls: Selective gear rules. Trout: Maximum length twenty inches.

Cedar Lake (Stevens County): Last Saturday in April through October 31 season.

Cedar River (King County): Closed waters.

Chambers Lake (within Ft. Lewis Military Reservation) (Pierce County): Selective gear rules, except electric motors allowed. Trout: Release all trout.

Chaplain Lake (Snohomish County): Closed waters.

Chapman Lake (Spokane County): Last Saturday in April through October 31 season. Chumming permitted. Trout: Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Chehalis River (Grays Harbor County), from Union Pacific Railroad Bridge in Aberdeen to high bridge on Weyerhaeuser 1000 line (approximately 400 yards downstream from Roger Creek): June 1 through April 15 season. Single point barbless hooks required October 1 through October 31 upstream from mouth to Porter Bridge and September 16 through October 31 from the Porter Bridge to the high bridge. Trout: Minimum length twelve inches. Release wild cutthroat.

Chehalis River, South Fork (Lewis County), from mouth to Highway Bridge at Boistfort: June 1 through April 15 season. Trout: Minimum length fourteen inches.

Chehalis River Potholes (adjacent to the Chehalis River south of Highway 12 in Grays Harbor County, this does not include sloughs or beaver ponds): Last Saturday in April through October 31 season.

Chelan Lake (Chelan County): Year around season except closed April 1 through June 30 north of a line between Purple Point at Stehekin and Painted Rocks and April 1 through June 30 within 400 feet of the mouths of all tributaries north of Fields Point. Trout except kokanee: Daily limit two except south of Fields Point May 15 through September 30 daily limit 5, not more than two of which may be over 15 inches in length. Trout except kokanee minimum length 15 inches except south of Fields Point minimum length 8 inches May 15 through September 30. Kokanee not counted in daily trout limit. Kokanee daily limit five, no minimum length. Salmon: Minimum length 15 inches. Burbot: Set line gear allowed.

Chelan Lake Tributaries (Chelan County), from mouths upstream one mile except Stehekin River: July 1 through October 31 season. Selective gear rules.

Chelan River (Chelan County): Year around season. Selective gear rules. Trout, minimum length twelve inches, maximum length twenty inches.

Chewelah Creek, forks and tributaries (Stevens County): Selective gear rules.

Chewuch River (Chewack River) (Okanogan County), from mouth to Pasayten Wilderness boundary: Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches. Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish.

Chimacum Creek (Jefferson County):

From mouth to Ness's Corner Road: June 1 through August 31 season. Trout: Minimum length fourteen inches.

From Ness's Corner Road to headwaters: Trout: Minimum length fourteen inches.

Chiwaukum Creek (Chelan County), from mouth to South Fork: Selective gear rules.

Chiwawa River (Chelan County): Selective gear rules. Trout: Maximum length twenty inches.

Chopaka Lake (Okanogan County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one.

Cispus River (Lewis County), from mouth to North Fork: Trout: Additional season November 1 through May 31, steelhead only. Release all fish other than steelhead.

Cispus River, North Fork (Lewis County): Trout: No more than one over twelve inches in length.

Clallam River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Clara Lake (Mason County): Last Saturday in April through October 31 season.

Clear Lake (Chelan County): Last Saturday in April through October 31 season. From July 5 through October 31, selective gear rules and all species: Release all fish.

Clear Lake (Pierce County): Chumming permitted.

Clear Lake (Spokane County): Last Saturday in April through October 31 season.

Clear Lake (Thurston County): Last Saturday in April through October 31 season.

Clearwater River (Jefferson County):

From mouth to Snahapish River: June 1 through April 15 season. Trout: Minimum length fourteen inches. December 1 through April 15, one wild steelhead per day may be retained.

From Snahapish River upstream: Trout, minimum length fourteen inches.

Cle Elum Lake (Reservoir) (Kittitas County): Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen, no minimum size. Burbot: Set line gear allowed.

Cle Elum River (Kittitas County), from mouth to Cle Elum Dam: Lawful to fish to base of Cle Elum Dam. Selective gear rules. Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish. Terminal gear restricted to one single barbless hook.

Cliff Lake (Grant County): March 1 through July 31 season.

Cloquallum Creek (Grays Harbor County):

From mouth to second bridge on Cloquallum Road: June 1 through last day in February season. Trout: Minimum length twelve inches. Release wild cutthroat.

From mouth to Highway 8 Bridge: Additional March 1 through March 31 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Clough Creek (North Bend) (King County): Closed waters.

Clover Creek (Pierce County), within the boundaries of McChord Air Force Base: Selective gear rules. Trout: Daily limit one, minimum length twelve inches.

Coal Creek (Cowlitz County), from mouth to four hundred feet below falls: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Coal Creek (tributary of Lake Washington) (King County): Closed waters.

Coal Creek (near Snoqualmie) (King County), from mouth to Highway I-90: Last Saturday in April through October 31 season. Juveniles only. Trout: No minimum length.

Coffee Pot Lake (Lincoln County): March 1 through August 31 season. Selective gear rules except motors allowed. Trout: Daily limit two. Bass: Daily limit two, maximum length fourteen inches. Crappie: Daily limit ten.

Coldwater Lake (Cowlitz County): Selective gear rules except use of electric motors allowed. Trout: Daily limit one, minimum length sixteen inches.

Coldwater Lake inlet and outlet streams (Cowlitz County): Closed waters.

Colville River (Stevens County):

From mouth to bridge at Town of Valley: Year around season. Trout: Daily limit five fish, not more than two of

which may be brown trout October 1 through November 30. Walleye: No minimum size. Daily limit eight fish not more than one of which may be longer than 20 inches. Release walleye 16 to 20 inches in length.

From bridge at Valley upstream and tributaries: Selective gear rules.

Columbia Park Lagoon (Benton County): Juveniles and licensed adults accompanied by a juvenile only.

Columbia River, including impoundments and all connecting sloughs, except Wells Ponds: Year-round season unless otherwise provided. General species provisions (unless otherwise provided for in this section): Bass: Daily limit five fish, not more than three of which may be over 15 inches. Trout: Daily limit two fish, minimum length 12 inches, except release all Dolly Varden/Bull Trout. Walleye: Daily limit five fish of which not more than one may be over 24 inches, minimum length 18 inches. Whitefish: Daily limit 15 fish. All other gamefish: No daily limit, except release all grass carp.

In the Columbia River between Washington and Oregon, the license of either state is valid. Anglers must comply with the fishing regulations of the state in which they are fishing. This provision does not allow an angler licensed in Oregon to fish on the Washington shore, or in the sloughs or tributaries in Washington.

Anglers fishing the Columbia River are restricted to one daily limit, as defined by the laws of the state in which they are fishing, even if they are licensed by both states.

From a true north-south line through Buoy 10 to the Megler-Astoria Bridge: Trout: Release wild cutthroat. Release all trout April 1 through July 31. Fishing from the north jetty is allowed during salmon season openings.

From the Megler-Astoria Bridge to the I-5 Bridge: Closed waters: September 1 through September 30 at mouth of Abernathy Creek from the Washington shore to a line between Abernathy Point light and a boundary marker east of the mouth of Abernathy Creek. Trout: Release wild cutthroat. Release all trout April 1 through May 15.

From the I-5 Bridge to the Highway 395 Bridge at Pasco, including Drano Lake: Closed waters: (1) From the upstream line of Bonneville Dam to boundary markers located six hundred feet below the fish ladder. (2) Waters from the upstream side of the Interstate Bridge at The Dalles to upper line of The Dalles Dam except that bank fishing is permitted up to four hundred feet below the fishway entrance on the Washington shore. (3) From John Day Dam downstream about three thousand feet except that bank fishing is permitted up to four hundred feet below the fishway entrance on the Washington shore. (4) From McNary Dam downstream to a line across the river from the red and white marker on the Oregon shore on a line that intersects the downstream end of the wing wall of the boat lock near the Washington shore. Trout: Release wild cutthroat from I-5 Bridge to Bonneville Dam. Release all trout April 1 through June 15.

From the Highway 395 Bridge at Pasco to the old Hanford townsite (wooden towers) powerline crossing, in Sec. 30, T13N, R28E: Closed waters: Ringold Springs Creek (Hatchery Creek). Trout: Release all trout, except May 1 through August 15 in those waters from the Ringold Hatch-

ery from WDFW markers 1/4 mile downstream from the Ringold wasteway outlet to WDFW markers 1/2 mile upstream from Spring Creek when fishing from the bank on the hatchery side of the river.

From the old Hanford townsite (wooden towers) powerline crossing in Sec. 30, T13N, R28E, to Vernita Bridge, (Highway 24): All species: February 1 through October 22 season. Trout: Release all trout.

From Vernita Bridge (Highway 24) to Priest Rapids Dam: Closed waters: (1) Priest Rapids Dam - waters between the upstream line of Priest Rapids Dam downstream to the boundary markers six hundred fifty feet below the fish ladders. (2) Jackson (Moran Creek or Priest Rapids Hatchery outlet) Creek - all waters of the Priest Rapids Hatchery system to the outlet on the Columbia River, extending to mid-stream Columbia between boundary markers located one hundred feet upstream and four hundred feet downstream of the mouth. All species: June 1 through March 31 season. Trout: Release all trout.

From Priest Rapids Dam to Chief Joseph Dam, including up to base of Washburn Pond outlet structure: Closed waters: (1) Wanapum Dam - waters between the upstream line of Wanapum Dam to the boundary markers seven hundred fifty feet downstream of the east fish ladder and five hundred feet downstream of the west fish ladder. (2) Rock Island Dam to boundary markers four hundred feet downstream of the fish ladders. (3) Rocky Reach Dam - waters between the upstream line of Rocky Reach Dam to boundary markers four hundred feet downstream of the fish ladders. (4) Wells Dam - waters between the upstream line of Wells Dam to boundary markers four hundred feet downstream of the spawning channel discharge (Chelan County) and fish ladder (Douglas County). (5) Chief Joseph Dam - closed to fishing from the Okanogan County shore between the dam and the Highway 17 Bridge. Closed to boat fishing from the boundary marker to the Corps of Engineers safety zone marker. Trout: Release all trout.

Above Chief Joseph Dam: See Lake Roosevelt and Rufus Woods Lake.

Conconully Lake (Okanogan County): Last Saturday in April through October 31 season.

Conconully Reservoir (Okanogan County): Last Saturday in April through October 31 season.

Conger Pond (Pend Oreille County): Last Saturday in April through October 31 season.

Connelly Creek and tributaries (Lewis County), from four hundred feet below the city of Morton Dam to its source: Closed waters.

Conner Lake (Okanogan County): Last Saturday in April through October 31 season.

Coot Lake (Grant County): March 1 through July 31 season.

Copolis River (Grays Harbor County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Cottage Lake (King County): Last Saturday in April through October 31 season.

Cottonwood Creek (Lincoln County): Year around season.

Cougar Creek (tributary to Yale Reservoir) (Cowlitz County): June 1 through August 31 season.

Cougar Lake (near Winthrop) (Okanogan County): September 1 through March 31 season.

Coulter Creek (Kitsap/Mason counties): Trout: Minimum length fourteen inches.

County Line Ponds (Skagit County): Closed waters.

Cow Lake (Adams County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Coweeman River (Cowlitz County), from mouth to Mulholland Creek: June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Cowiche Creek (Yakima County): Selective gear rules.

Cowlitz Falls Reservoir (Lake Scanewa) (Lewis County): June 1 through last day in February season. The upstream boundary of the reservoir in the Cowlitz arm is the posted PUD sign on Peters Road. The upstream boundary of the reservoir in the Cispus arm is the posted markers at the Lewis County PUD kayak launch, approximately 1.5 miles upstream from the confluence of the Cowlitz and Cispus arms. Trout: Daily limit five, minimum length eight inches.

Cowlitz River (Lewis County):

From mouth to Mayfield Dam: Year around season. Lawful to fish up to four hundred feet or the posted deadline at barrier dam. From the barrier dam downstream to a line from the mouth of Mill Creek to a boundary marker on the opposite shore, it is unlawful to fish from any floating device. All species: Release all fish except steelhead April 1 through May 31. Trout: Daily limit five, minimum length twelve inches, no more than two over twenty inches. Release wild cutthroat. Below Barrier Dam release all steelhead missing right ventral fin.

From Mayfield Dam to mouth of Muddy Fork: Year around season.

Cowlitz River, Clear and Muddy Forks (Lewis County): Trout: Daily limit five, no more than one over twelve inches in length may be retained.

Coyote Creek and Ponds (Adams County): March 1 through September 30 season.

Crab Creek (Adams/Grant counties):

From Highway 26 to Morgan Lake Road in Section 36: March 1 through September 30 season.

From Morgan Lake Road in Section 36 to O'Sullivan Dam (including Marsh Unit I and II impoundments): Closed waters.

Crab Creek (Lincoln County) and tributaries: Year around season.

Crabapple Lake (Snohomish County): Last Saturday in April through October 31 season.

Cranberry Creek (Mason County), mouth to Lake Limerick: Closed waters.

Crawfish Lake (Okanogan County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Crescent Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Crystal Lake (Grant County): March 1 through July 31 season.

Cup Lake (Grant County): March 1 through July 31 season.

Curl Lake (Columbia County): June 1 through October 31 season. Fishing from any floating device prohibited.

Curley Creek (Kitsap County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Damon Lake (Grays Harbor County): June 1 through October 31 season.

Davis Lake (Ferry County): Last Saturday in April through October 31 season.

Davis Lake (Lewis County): Last Saturday in April to last day in February season.

Davis Lake (Okanogan County): September 1 through March 31 season

Dayton Pond (Columbia County): Juveniles only.

Deadman Lake (Adams County): March 1 through September 30 season.

De Coursey Pond (Pierce County): Last Saturday in April through October 31 season. Juveniles only.

Deep Creek (Clallam County): Closed waters.

Deep Creek (tributary to Bumping Lake) (Yakima County): Mouth to second bridge crossing on USFS Rd. 1808 (approximately 3.7 miles from junction of USFS Rds. 1800 and 1808): Closed waters.

Deep Lake (Grant County): Last Saturday in April through September 30 season.

Deep Lake (Stevens County): Last Saturday in April through October 31 season.

Deep Lake (Thurston County): Last Saturday in April through October 31 season.

Deep River (Wahkiakum County): Year around season. Trout: Minimum length 14 inches. (~~Wild steelhead may be retained December 1 through May 31.~~)

Deer Creek (Mason County): Closed waters.

Deer Creek and Little Deer Creek (tributaries to North Fork Stillaguamish) (Skagit County): Closed waters.

Deer Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Deer Lake (Island County): Last Saturday in April through October 31 season.

Deer (Deer Springs) Lake (Lincoln County): Last Saturday in April through September 30 season.

Deer Lake (Mason County): Last Saturday in April through October 31 season.

Deer Lake (Stevens County): Last Saturday in April through October 31 season. Trout: No more than two over twenty inches in length may be retained.

Dempsey Creek (Thurston County): Selective gear rules. Trout: Minimum length twelve inches.

De Roux Creek (Yakima County): Selective gear rules.

Deschutes River (Thurston County), from old U.S. Highway 99 Bridge near Tumwater to Henderson Boulevard Bridge near Pioneer Park, except waters from Old Highway 99 Bridge to four hundred feet below lowest Tumwater Falls fish ladder are closed waters: June 1 through March 31 season. Trout: Minimum length fourteen inches.

From Henderson Boulevard Bridge upstream: June 1 through March 31 season. Selective gear rules. All species: Release all fish except trout greater than twenty inches in length.

Desire Lake (King County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Devereaux Lake (Mason County): Last Saturday in April through October 31 season.

Devil's Lake (Jefferson County): Last Saturday in April through October 31 season.

Dewatto River (Mason County): Trout, minimum length twelve inches. Wild cutthroat release.

From mouth to bridge on Bear Creek-Dewatto Road, additional November 1 through last day in February season. Trout: Minimum length twelve inches. Release wild cutthroat.

Diamond Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Dickey River (includes all forks) (Clallam County): June 1 through April 30 season. Trout: Minimum length fourteen inches. December 1 through April 30, one wild steelhead per day may be retained.

Dollar Lake (Grant County): March 1 through July 31 season.

Dosewallips River (Jefferson County), from mouth to Olympic National Park boundary about three-quarters mile downstream of falls: June 1 through last day in February season. Trout: Minimum length twelve inches. Release wild cutthroat.

Dot Lake (Grant County): March 1 through July 31 season.

Downs Lake (Lincoln/Spokane counties): Last Saturday in April through September 30 season.

Dry Falls Lake (Grant County): Last Saturday in April through November 30 season. Selective gear rules. Trout: Daily limit one.

Duck Lake (Grays Harbor County): Crappie: Daily limit ten.

Duckabush River (Jefferson County), from mouth to the Olympic National Park Boundary: June 1 through last day in February season. Trout: Minimum length twelve inches. Release wild cutthroat.

Dungeness River (Clallam County):

From mouth to junction of Gray Wolf and Dungeness River, October 16 through last day in February season. Trout: Minimum length fourteen inches.

From junction of Gray Wolf River upstream to Gold Creek - Closed waters.

From junction of Gold Creek upstream to headwaters: Trout: Minimum length fourteen inches.

Dusty Lake (Grant County): March 1 through July 31 season.

East Twin River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Ebey Lake (Little Lake) (Snohomish County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one, minimum length eighteen inches.

Eightmile Lake (Chelan County): Trout: Daily limit five, not more than two mackinaw may be retained.

Elbow Lake (Stevens County): Last Saturday in April through October 31 season.

Elk River (Grays Harbor County), from the Highway 105 Bridge upstream: June 1 through last day in February season. Trout: Minimum length twelve inches. Release wild cutthroat.

Ell Lake (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit one.

Ellen Lake (Ferry County): Last Saturday in April through October 31 season.

Elochoman River (Wahkiakum County): Closed waters: Waters from 100 feet above the upper hatchery rack downstream to the Elochoman Hatchery Bridge located 400 feet below the upper hatchery rack; waters from a point 50 feet above to 100 feet below the outlet pipes from the most downstream Elochoman Hatchery rearing pond and extending 30 feet out from the south bank of the river; waters between the department of fish and wildlife temporary rack downstream to Foster (Risk) Road Bridge while rack is installed in the river; mainstem waters from the confluence of the west fork to source.

From mouth to West Fork: June 1 through March 15 season. Trout: Daily limit five, minimum length twelve inches, no more than two over twenty inches. Release wild cutthroat.

Elwha River (Clallam County): Closed waters: From south spillway on Aldwell Lake Dam downstream two hundred feet and from approximately fifty yards upstream to fifty yards downstream of Elwha Tribal Hatchery outfall as posted.

From mouth to two hundred feet below the south spillway on the Aldwell Lake Dam: June 1 through last day in February season. Fishing from any floating device prohibited. Trout: Minimum length fourteen inches.

From Lake Aldwell upstream to four hundred feet below spillway at Lake Mills Dam, including all tributaries except Indian Creek: Selective gear rules. Trout: Minimum length twelve inches.

Empire Lake (Ferry County): Last Saturday in April through October 31 season.

Enchantment Park Ponds (Chelan County): Juveniles only.

Entiat River (Chelan County), from mouth to Entiat Falls: June 1 through August 31 season. Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches. Whitefish: Additional season December 1 through March 31. Release all fish except whitefish. Selective gear rules.

Erie Lake (Skagit County): Last Saturday in April through October 31 season.

Failor Lake (Grays Harbor County): Last Saturday in April through October 31 season.

Fan Lake (Pend Oreille County): Last Saturday in April through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Fazon Lake (Whatcom County): Fishing from any floating device prohibited from first Friday in October through January 15. Channel catfish: Daily and possession limit two. Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Finnel Lake (Adams County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Fio Rito Lakes (Kittitas County): Fishing from a floating device equipped with an internal combustion engine prohibited.

Fish Lake (Chelan County): Trout: No more than two over fifteen inches in length may be retained.

Fish Lake (Ferry County): Last Saturday in April through October 31 season.

Fish Lake (Okanogan County): Last Saturday in April through October 31 season.

Fish Lake (Spokane County): Last Saturday in April through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Fisher Slough (Snohomish County):

From mouth to Highway 530 Bridge: Year around season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Upstream from Highway 530 Bridge: Trout: Minimum length fourteen inches.

Fishhook Pond (Walla Walla County): Last Saturday in April through October 31 season. Fishing from any floating device prohibited.

Fishtrap Creek (Whatcom County): From Koh Road to Bender Road: June 1 through October 31 season. Juveniles only.

Fishtrap Lake (Lincoln/Spokane counties): Last Saturday in April through September 30 season.

Flowing Lake (Snohomish County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Forde Lake (Okanogan County): Last Saturday in April through October 31 season.

Fort Borst Park Lake (Lewis County): Last Saturday in April through last day in February season. Juveniles only.

Fortson Mill Pond # 2 (Snohomish County): Last Saturday in April through October 31 season. Juveniles only.

Fourth of July Lake (Adams/Lincoln counties): December 1 through March 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than two over fourteen inches in length may be retained.

Franz Lake (Skamania County): Closed waters.

Frater Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Frenchman Hills Lake (Grant County): February 1 through September 30 season.

Gadwall Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Garfield Juvenile Pond (Whitman County): Juveniles only.

George Lake (Grant County): March 1 through July 31 season.

Geneva Lake (King County): Last Saturday in April through October 31 season.

Germany Creek (Cowlitz County), from mouth to end of Germany Creek Road (approximately five miles): June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat. Release all steelhead June 1 through October 31.

Gillette Lake (Stevens County): Last Saturday in April through October 31 season.

Gissberg Ponds (Snohomish County): Channel catfish: Daily limit 2, no minimum size.

Gobar Creek (tributary to Kalama River) (Cowlitz County): June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Gold Creek, Gold Creek Pond and Outlet Channel (tributary to Keechelus Lake) (Kittitas County): Closed waters.

Gold Creek (Okanogan County): From mouth to Foggy Dew Creek: Selective gear rules.

Goldsborough Creek (Mason County): June 1 through last day in February season. Trout: Minimum length twelve inches. Release wild cutthroat.

Goodman Creek (Jefferson County) outside Olympic National Park: June 1 through last day in February season. Trout, minimum length fourteen inches. December 1 through last day in February one wild steelhead per day may be retained.

Goodwin Lake (Snohomish County): Chumming permitted. Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Goose Creek (Lincoln County), within the city limits of Wilbur: Year around season. Juveniles and holders of free licenses only.

Goose Lake, Lower (Adams County): Crappie: Not more than five over eight inches in length: Bluegill: Not more than five over six inches in length.

Gorst Creek (Kitsap County): Closed waters: From lower bridge on the old Belfair Highway upstream to source (including tributaries). From mouth upstream to lower bridge: Trout: Minimum length fourteen inches.

Gosnell Creek and tributaries (tributary to Lake Isabella) (Mason County): Trout: Minimum length fourteen inches.

Goss Lake (Island County): Last Saturday in April through October 31 season.

Grande Ronde River (Asotin County):

From mouth to County Road Bridge about two and one-half miles upstream: Year around season. Selective gear rules September 1 through May 31. Trout: Minimum length twelve inches, maximum length twenty inches.

From County Road Bridge upstream to Oregon state line and all tributaries: June 1 through August 31 season. Selective gear rules. Trout: Minimum length twelve inches. Additional season September 1 through April 15: Barbless hooks required. All tributaries: Closed waters. All species: Release all fish except steelhead with a missing adipose fin and a healed scar at the fin site.

Granite Creek and tributaries (Pend Oreille County): Closed waters.

Granite Lakes (near Marblemount) (Skagit County): Grayling: Release all grayling.

Gray Wolf River (Clallam County): From junction with Dungeness River to bridge at river mile 1.0 - Closed waters.

From bridge at river mile 1.0 upstream - selective gear rules. Trout: Minimum length fourteen inches.

Grays River (Wahkiakum County), from mouth to Highway 4 Bridge: November 15 through March 15 season; and from Highway 4 Bridge to mouth of South Fork: January 1 through March 15 season. All species: Release all fish except

steelhead without an adipose fin and healed scar at the fin site. Trout: Minimum length twenty inches.

Grays River, East Fork (Wahkiakum County): Selective gear rules. Trout: Minimum length fourteen inches.

Grays River, West Fork (Wahkiakum County), downstream from Hatchery Road Bridge: June 1 - August 31 season. Trout: Additional January 1 through March 15 season downstream from Hatchery Road Bridge. Release all fish other than trout and all trout less than twenty inches in length.

Green Lake and Green Lake, Lower (Okanogan County): December 1 through March 31 season.

Green (Duwamish) River (King County):

From the First Avenue Bridge to Tacoma Headworks Dam: June 1 through last day in February season, except waters from the Auburn-Black Diamond Bridge downstream to the 8th St. N.E. Bridge in Auburn are closed September 1 through October 15 and waters from the Auburn-Black Diamond Bridge downstream to the Highway 18 Bridge are closed September 1 through October 31. Fishing from any floating device prohibited November 1 through last day in February. Trout: Minimum length fourteen inches. Wild steelhead may be retained July 1 through the last day in February.

From the SR 167 Freeway Bridge to the Tacoma Headworks Dam: Additional March 1 through March 15 season. Fishing from any floating device prohibited. Trout, minimum length fourteen inches.

Green River (Cowlitz County): Closed waters: All tributaries.

From mouth to 2800 Bridge: June 1 through November 30 season except closed from the water intake at the upper end of the hatchery grounds downstream to a point 1500 feet below the salmon hatchery rack during the period September 1 through November 30. All species: Release all fish except steelhead. Trout: Minimum length twenty inches.

From 2800 Bridge to source: Closed waters.

Greenwater River (King County), from mouth to Greenwater Lakes: Selective gear rules. Trout: Minimum length twelve inches.

Grimes Lake (Douglas County): June 1 through August 31 season. Selective gear rules, except fishing from a floating device equipped with an electric motor allowed. Trout: Daily limit one.

Grizzly Lake (Skamania County): Closed waters.

Halfmoon Lake (Adams County): March 1 through September 30 season.

Halfmoon Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Hallin Lake (Adams County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Hamilton Creek (Skamania County): June 1 through March 15 season. Trout: Minimum length twelve inches. Release

wild cutthroat. All tributaries downstream from the Highway 14 Bridge: Closed waters.

Hamma Hamma River (Mason County):

From mouth to four hundred feet below falls: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Hammersley Inlet Freshwater Tributaries (Mason County), except Mill Creek: Closed waters.

Hampton Lakes, Lower and Upper (Grant County): March 1 through July 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Hancock Lake (King County): June 1 through October 31 season. All tributary streams and the upper third of the outlet are closed waters.

Harrison Pond (Skagit County): Closed waters.

Hart Lake (Pierce County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Harvey Creek (tributary to Sullivan Lake) (Pend Oreille County):

From mouth to Bridge 4830 on county road (about one and one-half miles): Closed waters.

From Bridge 4830 upstream: Selective gear rules.

Harvey Creek (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Hatch Lake (Stevens County): December 1 through March 31 season.

Hatchery Lake (Mason County): Last Saturday in April through October 31 season.

Haven Lake (Mason County): Last Saturday in April through October 31 season.

Hawk Creek and tributaries (Lincoln County): Year around season.

Hays Creek and Ponds (Adams County): March 1 through September 30 season.

Headgate Pond (Asotin County): Last Saturday in April through October 31 season. Juveniles and holders of free licenses only.

Heart Lake (near Anacortes) (Skagit County): Last Saturday in April through October 31 season.

Heins Lake (Kitsap County): Closed waters.

Hemlock Lake (Trout Creek Reservoir) (Skamania County): ~~((June 1 through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length fourteen inches.))~~
Closed waters.

Heritage Lake (Stevens County): Last Saturday in April through October 31 season.

Hicks Lake (Thurston County): Last Saturday in April through October 31 season.

Hog Canyon Lake (Spokane County): December 1 through March 31 season. Trout: No more than two over fourteen inches in length may be retained.

Hoh River (Jefferson County), from mouth to mouth of South Fork: June 1 through April 15 season. December 1 through April 15, from Highway 101 to mouth of south fork, selective gear rules. Trout: Minimum length fourteen inches. December 1 through April 15, from mouth to Highway 101 one wild steelhead per day may be retained.

Hoh River South Fork (Jefferson County), outside Olympic National Park boundary: June 1 through April 15 season. December 1 through April 15, selective gear rules. Trout: Minimum length fourteen inches.

Hoko River (Clallam County): Trout, minimum length fourteen inches. Release wild cutthroat upstream from upper Hoko Bridge (cement bridge on Lake Ozette Highway).

From mouth to upper Hoko Bridge: Additional November 1 through March 15 season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through March 15.

From upper Hoko Bridge to Ellis Creek Bridge (river mile 18.5): Additional November 1 through March 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Release wild cutthroat.

Homestead Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Hoquiam River, including all forks (Grays Harbor County): June 1 through March 31 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Horseshoe Lake (Clark/Cowlitz counties): Trout: No more than 2 trout 20 inches or greater in length may be retained.

Horseshoe Lake (Jefferson County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit 1.

Horseshoe Lake (Kitsap County): Last Saturday in April through October 31 season.

Horseshoe Lake (Pend Oreille County): Last Saturday in April through October 31 season. Chumming permitted. Trout except kokanee: Daily limit five. Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Horsethief Lake (Klickitat County): Last Saturday in April through October 31 season.

Hourglass Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Howard Lake (Snohomish County): Last Saturday in April through October 31 season.

Howell Lake (Mason County): Last Saturday in April through October 31 season.

Hozomeen Lake (Whatcom County): July 1 through October 31 season.

Huff Lake (Pend Oreille County): Closed waters.

PERMANENT

Humtulpis River (Grays Harbor County), from mouth to forks: June 1 through March 31 season. Single point barbless hooks required September 16 through October 31. Trout: Minimum length fourteen inches.

Humtulpis River, East Fork (Grays Harbor County), from mouth to concrete bridge on Forest Service Road between Humtulpis Guard Station and Grisdale: Trout: Minimum length fourteen inches.

Humtulpis River, West Fork (Grays Harbor County): Trout: Minimum length fourteen inches. Mouth to Donkey Creek Road Bridge: Additional November 1 through March 31 season. Trout: Minimum length fourteen inches.

Hutchinson Lake (Adams County): March 1 through September 30 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

I-82 Ponds, 1 and 2 (Yakima County): Walleye: Unlawful to retain walleye.

I-82 Ponds, 1 through 7 (Yakima County): Fishing from vessels equipped with internal combustion engines prohibited.

Icehouse Lake (Skamania County): Trout: No more than 2 trout 20 inches or greater in length may be retained.

Icicle River (Creek) (Chelan County):

From mouth to four hundred feet below Leavenworth National Fish Hatchery rack: Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches. From Rock Island Bridge upstream to Leland Creek: Selective gear rules.

Indian Creek (tributary to Elwha River) (Clallam County), from mouth upstream to first Highway 101 crossing: Selective gear rules. Trout: Minimum length twelve inches.

Indian Creek (Yakima County): Closed waters.

Indian Heaven Wilderness Lakes (Skamania County): Trout: Daily limit three.

Issaquah Creek (King County): Closed waters.

Jameson Lake (Douglas County): Last Saturday in April through July 4 and October 1 through October 31 seasons.

Jasmine Creek (Okanogan County): Year-round season. Juveniles only.

Jefferson Park Pond (Walla Walla County): Juveniles only.

Jennings Park Pond (Snohomish County): Last Saturday in April through October 31 season. Juveniles only.

Jewitt Creek (Klickitat County): Juveniles only. Trout: Daily limit five, no minimum length.

John's Creek (Mason County): Closed waters.

Johns River, including North and South Forks (Grays Harbor County): June 1 through last day in February season. Trout: Minimum length twelve inches. Release wild cutthroat.

Johnson Creek (tributary to Cowlitz River) (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Johnson Creek (Whatcom County), from Northern Pacific Railroad tracks to the Lawson Street footbridge in Sumas: Juveniles only.

Jump-Off Joe Lake (Stevens County): Last Saturday in April through October 31 season.

Kachess Lake (Reservoir) (Kittitas County): Chumming permitted. Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen. Burbot: Set line gear allowed.

Kachess River (Kittitas County): Lawful to fish to base of Kachess Dam. Selective gear rules. From Kachess Lake (Reservoir) upstream to Mineral Creek: Closed waters.

Kalaloch Creek (Jefferson County), outside Olympic National Park: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Kalama River (Cowlitz County): Trout, minimum length 14 inches. Release wild cutthroat.

From mouth upstream to one thousand feet below fishway at upper salmon hatchery: Year around season except during the period the temporary fish rack is installed. Waters from two hundred feet above to one thousand five hundred feet below the rack are closed waters. Fishing from a floating device equipped with a motor prohibited upstream of Modrow Bridge. Fly fishing only from the pipeline crossing to the posted deadline at the intake to the lower salmon hatchery. September 1 through October 31.

From one thousand feet below to one thousand feet above the fishway at upper salmon hatchery: Closed waters.

From one thousand feet above the fishway at the upper salmon hatchery to Summers Creek: Year around season. Selective gear rules.

From Summers Creek upstream to the 6420 Road at about one mile above the gate at the end of the county road: June 1 through March 31 season. Fly fishing only.

From 6420 Road to Kalama Falls: Closed waters.

Kalispell Creek and tributaries (Pend Oreille County): Last Saturday in April through October 31 season. Selective gear rules.

Kapowsin Lake (Pierce County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Kathleen Lake (King County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Keechelus Lake (Reservoir) (Kittitas County): Chumming permitted. Trout except kokanee: Daily limit two, minimum length twelve inches, additionally up to sixteen kokanee may be retained. Burbot: Set line gear allowed.

Kelsey Creek (tributary of Lake Washington) (King County): Closed waters.

Kennedy Creek (Thurston County), from mouth to four hundred feet below falls: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Kennedy Creek Pond (Thurston County): Last Saturday in April through October 31 season.

Kettle River (Stevens County):

June 1 through October 31 season. Trout: Selective gear rules, minimum length 12 inches.

Additional season: November 1 through May 31. All species except whitefish: Selective gear rules and release all fish. Whitefish: Single hook only.

Ki Lake (Snohomish County): Last Saturday in April through October 31 season. Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Kidney Lake (Skamania County): Last Saturday in April through last day in February season.

Kimball Creek (near Snoqualmie) (King County): Last Saturday in April through October 31 season. Juveniles only. Trout: No minimum length.

Kings Lake and tributaries (Pend Oreille County): Closed waters.

Kings Lake Bog (King County): Closed waters.

Klaus Lake (King County): Last Saturday in April through October 31 season, except the inlet and outlet to first Weyerhaeuser spur are closed waters.

Klickitat River (Klickitat County):

From mouth to Fisher Hill Bridge: June 1 through November 30 season. Trout: Minimum length twelve inches.

From Fisher Hill Bridge to four hundred feet above # 5 fishway: Closed waters.

From four hundred feet above # 5 fishway to the Yakama Indian Reservation boundary: June 1 through November 30 season, except waters from boundary markers above Klickitat salmon hatchery to boundary markers below hatchery are closed waters. Trout: Minimum length twelve inches. Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish.

From the Yakama Indian Reservation boundary upstream to source, including all tributaries: Closed waters.

Klineline Ponds (Clark County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Koeneman Lake (Fern Lake) (Kitsap County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Kress Lake (Cowlitz County): Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than 2 trout 20 inches in length or greater may be retained. Bass: Only bass less than twelve inches or over eighteen inches in length may be retained.

Lacamas Creek (Clark County): Lawful to fish upstream to the base of Lacamas Lake Dam.

Lacamas Creek, tributary of Cowlitz River (Lewis County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Lake Creek, mouth to Three Prong Creek (Okanogan County): Selective gear rules. Trout: Maximum length twenty inches.

Langlois Lake (King County): Last Saturday in April through October 31 season.

Latah (Hangman) Creek (Spokane County): Year around season.

Lawrence Lake (Thurston County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Leader Lake (Okanogan County): Last Saturday in April through September 30 season.

Ledbetter Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Ledking Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Leech Lake (White Pass area) (Yakima County): Fly fishing only. Fishing prohibited from floating devices equipped with motors. Trout: No more than two over twelve inches in length.

Lemna Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Lenice Lake (Grant County): March 1 through October 31 season. Selective gear rules. Trout: Daily limit one.

Lena Lake, Lower (Jefferson County): Closed waters: Inlet stream from mouth upstream to footbridge (about one hundred feet).

Lenore Lake (Grant County): Closed waters: Area within two hundred yard radius of trash rack leading to the irrigation pumping station (south end of lake) and area approximately one hundred yards beyond the mouth of inlet stream to State Highway 17. March 1 through May 31 season: Selective gear rules, except fishing from a floating device equipped with an electric motor permitted. All species: Release all fish. Additional season June 1 through November 30: Selective gear rules, except fishing from a floating device equipped with an electric motor permitted. Trout: Daily limit one.

Leo Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Lewis River (Clark County), from mouth to forks: Year around season. Trout: Minimum length twelve inches. Release wild cutthroat.

Lewis River, North Fork (Clark/Skamania counties):

From mouth to Johnson Creek: Year around season. Trout: Minimum length twelve inches. Release wild cutthroat.

From Johnson Creek to Colvin Creek: June 16 through August 15 and November 16 through April 30 seasons except those waters shoreward of the cable buoy and corkline at the

mouth of the Lewis River Salmon Hatchery fish ladder are closed waters. (~~Fishing from any floating device prohibited August 16 through October 15.~~) Trout: Minimum length twelve inches. Release wild cutthroat.

From mouth of Colvin Creek to overhead powerlines at Merwin Dam: December 16 through September 30 season. Trout: Minimum length twelve inches. Release wild cutthroat.

From overhead powerlines at Merwin Dam to Merwin Dam: Closed waters.

From the cable crossing 1,300 feet below Yale Dam to Yale Dam: Closed waters.

Within Lewis River Power Canal and old Lewis River streambed between Swift No. 1 powerhouse and Swift No. 2 powerhouse: Last Saturday in April through October 31 season. Fishing from any floating device prohibited.

From Eagle Cliff Bridge to lower falls including all tributaries: Selective gear rules. All species: Release all fish.

Lewis River, East Fork (south) (Clark/Skamania counties): Closed waters: From the posted markers four hundred feet below to one hundred feet above Lucia Falls; from four hundred feet below to four hundred feet above Molton Falls; from four hundred feet below Horseshoe Falls to one hundred feet above Sunset Falls.

From mouth to four hundred feet below Horseshoe Falls: June 1 through March 15 season. Trout: Minimum length fourteen inches.

From one hundred feet above Sunset Falls to source: June 1 through December 31 season. Trout: Minimum length fourteen inches.

Mouth to posted markers at top boat ramp at Lewisville Park: Trout: Additional April 16 through May 31 season. Release all fish other than steelhead with a missing adipose fin and a healed scar at the fin site.

Liberty Lake (Spokane County): Last Saturday in April through September 30 season.

Lilly Lake (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Lincoln Pond (Clallam County): Juveniles only.

Little Ash Lake (Skamania County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Little Bear Creek (tributary of Sammamish River) (Snohomish/King counties): Closed waters.

Little Klickitat River (Klickitat County), within Goldendale city limits: Last Saturday in April through October 31 season. Juveniles only. Trout: Daily limit five, no minimum length.

Little Lost Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Little Naches River (Yakima County): Selective gear rules.

Little Nisqually River (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Little Quilcene River (Jefferson County), from mouth to the Little Quilcene River Bridge on Penny Creek Road, June 1 through last day in February season: Trout: Minimum length fourteen inches.

Little Spokane River (Spokane County):

From mouth to SR 291 Bridge: Year around season.

From SR 291 Bridge upstream to the West Branch: April 30 through October 31 season. Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish.

Little Twin Lake (Okanogan County): December 1 through March 31 season.

Little Twin Lake (Stevens County): Last Saturday in April through October 31.

Little Wenatchee River (Chelan County), from Lake Wenatchee to the falls below U.S. Forest Service Road 6700 Bridge at Riverside Campground: Selective gear rules. Trout: Maximum length twenty inches.

Little White Salmon River (Skamania County): Closed waters: From markers at federal fish hatchery a distance of one thousand five hundred feet upstream to fishway. Trout: Daily limit five.

Long Lake (Ferry County): Last Saturday in April through October 31 season. Fly fishing only. Unlawful to fish from floating devices equipped with motors.

Long Lake (Kitsap County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Long Lake (Okanogan County): Last Saturday in April through September 30 season.

Long Lake (Spokane River Reservoir) (Spokane County): Bass: Release all bass May 1 through June 30.

Long Lake (Thurston County): Last Saturday in April through October 31 season.

Long's Pond (Thurston County): Juveniles only.

Loomis Lake (Pacific County): Last Saturday in April through October 31 season.

Loomis Pond (Grays Harbor County): Closed waters.

Loon Lake (Stevens County): Last Saturday in April through October 31 season. Trout except kokanee: Daily limit five, except no more than two over twenty inches in length may be retained. Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Lost Lake (Okanogan County): Unlawful to fish from a floating device equipped with an internal combustion engine.

Lost River (Okanogan County):

From one-quarter mile above bridge to mouth of Monument Creek: Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches.

From mouth of Monument Creek to outlet of Cougar Lake: Selective gear rules. Trout: Legal to retain Dolly

Varden/Bull Trout as part of trout daily limit. Dolly Varden/Bull Trout daily limit two, minimum length fourteen inches.

Love Lake (Clark County): Closed waters.

Lucas Slough (Skagit County): Closed waters.

Ludlow Lake (Jefferson County): Last Saturday in April through October 31 season.

Lyons Park Pond (at College Place) (Walla Walla County): Juveniles only.

Lyre River (Clallam County):

From mouth to falls near river mile 3: June 1 through last day in February season. Trout: Minimum length fourteen inches. From falls to source: Selective gear rules. All species: Release all fish.

Mad River (Chelan County), from mouth upstream to Jimmy Creek: Closed waters.

Maggie Lake (Mason County): Last Saturday in April through October 31 season.

Marie Lake (Hampton Sloughs) (Grant County): March 1 through July 31 season.

Margaret Lake (King County): Last Saturday in April through October 31 season.

Marshal Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Martha Lake (Grant County): March 1 through July 31 season.

Martha Lake (Snohomish County): Last Saturday in April through October 31 season.

May Creek (tributary of Lake Washington) (King County): Closed waters.

McAllister Creek (Thurston County): Trout: Minimum length fourteen inches.

McCabe Pond (Kittitas County): Fishing from any floating device prohibited. All species: Five fish daily limit for all species combined.

McDonald Creek (Clallam County): Trout: Minimum length fourteen inches.

McDowell Lake (Stevens County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish.

McIntosh Lake (Thurston County): Last Saturday in April through October 31 season.

McLane Creek (Thurston County), from the south bridge on Highway 101 upstream: Trout: Minimum length fourteen inches.

McLane Creek Ponds (Thurston County): Last Saturday in April through October 31 season.

McMurray Lake (Skagit County): Last Saturday in April through October 31.

Medical Lake (Spokane County): Last Saturday in April through September 30 season. Selective gear rules. Trout: Daily limit two, minimum length fourteen inches.

Medical Lake, West (Spokane County): Last Saturday in April through September 30 season.

Melaney Creek (Mason County): Closed waters.

Melbourne Lake (Mason County): Last Saturday in April through October 31 season.

Mercer Creek (Kittitas County), that portion within Ellensburg city limits: Juveniles only. Trout: Daily limit five, no minimum length.

Mercer Slough (tributary of Lake Washington) (King County): Closed waters.

Merrill Lake (Cowlitz County): Fly fishing only. Unlawful to fish from a floating device equipped with an internal combustion engine. Trout: Daily limit two, maximum length twelve inches.

Merritt Lake (Chelan County): Trout: Daily limit sixteen.

Merry Lake (Grant County): March 1 through October 31 season. Selective gear rules. Trout: Daily limit one.

Methow River (Okanogan County):

From mouth upstream to the falls above Brush Creek: June 1 through August 31 season. Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches. Whitefish: Additional season December 1 through March 31. Release all fish except whitefish. Selective gear rules.

Methow River tributaries except Chewuck, Lost and Twisp Rivers: Selective gear rules. Trout: Maximum length twenty inches.

Middle Nemah Pond (Pacific County): June 1 through October 31 season.

Mill Creek (Chelan County): Closed waters.

Mill Creek (Cowlitz County): Closed waters.

Mill Creek (Mason County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Mill Creek (Walla Walla County):

From mouth to 9th St. Bridge: June 1 through April 15 season. All species: Barbless hooks required and release all fish except steelhead with a missing adipose fin and a healed scar at the fin site September 1 through April 15.

From 9th St. Bridge to Roosevelt St. Bridge, within city limits of Walla Walla: Closed waters.

From Roosevelt St. Bridge to Bennington Lake flood diversion dam: Trout: Daily limit five.

From Bennington Lake flood diversion dam upstream, including all tributaries: All tributaries: Closed waters. Selective gear rules. Trout: Maximum length twenty inches.

Mill Creek Pond (Grays Harbor County): Juveniles only.

Mill Pond (Auburn) (King County): Last Saturday in April through October 31 season. Juveniles only.

Mill Pond (Pend Oreille County): Last Saturday in April through October 31 season.

Mima Creek (Thurston County): Selective gear rules. Trout: Minimum length twelve inches.

Mineral Creek (tributary to upper Kachess River) (Kittitas County), from mouth to Wilderness Boundary: Closed waters.

Mineral Creek (tributary to Nisqually River), and Mineral Creek, North Fork (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Mineral Lake (Lewis County): Last Saturday in April through September 30 season.

Minter Creek (Pierce/Kitsap counties): Closed waters: Area from department intake dam downstream to mouth. Trout: Minimum length fourteen inches.

Mirror Lake (Grant County): Last Saturday in April through September 30 season.

Mission Lake (Kitsap County): Last Saturday in April through October 31 season.

Moclips River (Grays Harbor County), from mouth to outside the Quinault Indian Reservation: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Monte Christo Lake (Snohomish County): June 1 through October 31 season. Selective gear rules.

Mooses Pond (Pacific County): June 1 through October 31 season.

Moran Slough (including inlet and outlet streams) (Grant County): Closed waters.

Morgan Lake (Adams County): March 1 through September 30 season.

Morse Creek (Clallam County), from mouth to Port Angeles Dam: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Moses Lake (Grant County): Crappie: Daily limit five, only crappie more than ten inches in length may be retained. Bluegill: Daily limit five, only bluegill more than eight inches in length may be retained.

Mosquito Creek (Jefferson County) outside Olympic National Park: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Muck Creek and tributaries (within Ft. Lewis Military Reservation) (Pierce County): Selective gear rules. Trout: Release all trout.

Mud Lake (Mason County): Last Saturday in April through October 31 season.

Mud Lake (Yakima County): Selective gear rules. Trout: Daily limit two.

Mudget Lake (Stevens County): Last Saturday in April through October 31 season.

Munn Lake (Thurston County): Last Saturday in April through October 31 season.

Muskegon Lake (Pend Oreille County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two.

Myron Lake (Yakima County): Selective gear rules. Trout: Daily limit two.

Mystic Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Naches River (Yakima/Kittitas counties):

From the mouth to Little Naches River: Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches. Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish. Terminal gear restricted to one single barbless hook.

From Little Naches River upstream: Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches.

Naneum Creek (Kittitas County): Selective gear rules.

Naneum Pond (Kittitas County): Juveniles only.

Naselle River (Pacific/Wahkiakum counties), from Highway 101 Bridge upstream including all forks: Closed waters: Area from four hundred feet below falls in Sec. 6, T10N, R8W (Wahkiakum County) to falls, and September 1 through January 31, waters within four hundred feet both upstream and downstream of the entrance to the Naselle Salmon Hatchery. Single point barbless hooks required July 1 through January 31 upstream from Highway 101 Bridge to Highway 4 Bridge and October 16 through January 31 upstream from Highway 4 Bridge to Crown Main Line (Salme) Bridge. Trout: Minimum length fourteen inches.

From Highway 101 Bridge to mouth of North Fork: Additional November 1 through March 31 season. Trout: Minimum length fourteen inches.

South Fork, from mouth to Bean Creek: Additional November 1 through last day in February season. Trout: Minimum length fourteen inches.

Nason Creek (Chelan County): Selective gear rules. From the mouth upstream to the downstream end of the Cascade Tunnel: Trout: Maximum length twenty inches.

From the downstream end of the Cascade Tunnel upstream to Smith Brook: Closed waters.

From Smith Brook to Stevens Creek: Selective gear rules.

Nason Creek Fish Pond (Chelan County): Juveniles and disabled persons only.

Negro Creek (Lincoln County): Year-round season from mouth at Sprague Lake to town of Sprague.

Negro Creek (Whitman County): Last Saturday in April through July 15 season.

Nemah River, North, Middle, and South: June 1 through last day in February season. Single point barbless hooks required on North Nemah upstream to the lower bridge on dead end lower Nemah Road October 1 through January 31, on Middle Nemah upstream to the Department of Natural Resources Bridge on Middle Nemah A-line Road July 1 through January 31, and on South Nemah upstream to confluence with Middle Nemah July 1 through January 31. Trout: Minimum length fourteen inches.

Newhalem Ponds (Whatcom County): Closed waters.

Newaukum River, main river and South Fork (Lewis County): June 1 through March 31 season. Trout: Minimum length fourteen inches mouth to Highway 508 Bridge near Kearny Creek.

Newaukum River, Middle Fork, mouth to Taucher Road Bridge (Lewis County): June 1 to March 31 season. Trout: Minimum length fourteen inches.

Newaukum River, North Fork (Lewis County):

From mouth to four hundred feet below Chehalis city water intake: June 1 through March 31 season. Trout: Minimum length fourteen inches.

From Chehalis city water intake upstream: Closed waters.

Nile Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Nisqually River (Pierce County), from mouth to four hundred feet below LaGrande Powerhouse: June 1 through November 30 season. Trout: Minimum length fourteen inches.

Nooksack River (Whatcom County), from mouth to forks, Middle Fork to Dam and North Fork to Nooksack Falls: June 1 through March 15 season. Fishing from floating devices equipped with motors prohibited on the North and Middle Forks November 1 through March 15. Trout: Minimum length fourteen inches.

Nooksack River, South Fork (Skagit/Whatcom counties): From mouth to Skookum Creek: June 1 through March 15 season. Selective gear rules. Trout: Minimum length fourteen inches.

From Skookum Creek upstream: Closed waters.

No Name Lake (Pend Oreille County): Last Saturday in April through October 31 season.

North Creek (tributary of Sammamish River) (Snohomish/King counties): Closed waters.

North Elton Ponds (Yakima County): December 1 through March 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Trout: Daily limit two.

North Lake (King County): Last Saturday in April through October 31 season.

North Potholes Reserve Ponds (Grant County): February 1 through the day before opening of waterfowl season. Fishing from any floating device prohibited, except float tubes permitted.

North River (Grays Harbor/Pacific counties), from Highway 105 Bridge upstream: Single point barbless hooks required July 1 through October 31 upstream to Salmon Creek. Trout: Minimum length fourteen inches.

From Highway 105 Bridge to Falls River: Additional November 1 through last day in February season. Single point barbless hooks required November 1 through January 31 upstream to Salmon Creek. Trout: Minimum length fourteen inches.

Northern State Hospital Pond (Skagit County): Last Saturday in April through October 31 season. Juveniles only.

Northwestern Reservoir (Klickitat/Skamania counties): Last Saturday in April through last day in February season.

Nunnally Lake (Grant County): March 1 through October 31 season. Closed waters: Outlet stream of Nunnally Lake. Selective gear rules. Trout: Daily limit one.

Oakland Bay freshwater tributaries (Mason County), except Goldsborough Creek (including Shelton Creek, Canyon Creek, Uncle John Creek, Campbell Creek, Melaney Creek, Deer Creek, John's Creek, and Cranberry Creek to Lake Limerick): Closed waters.

Ohanapecosh Creek (tributary to Cowlitz River) (Lewis/Pierce counties): Selective gear rules. Trout: Minimum length twelve inches.

Ohop Lake (Pierce County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Okanogan River (Okanogan County):

From the mouth to the highway bridge at Malott: Year around season. Trout: Release all trout. Selective gear rules. Trout: Maximum length twenty inches.

Closed waters: From the highway bridge at Malott upstream: From Zosel Dam downstream to one-quarter mile below the railroad trestle.

Old Fishing Hole Pond (Kent) (King County): Last Saturday in April through October 31 season. Juveniles only.

Olequa Creek (Lewis County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Osborne Lake (Mason County): Last Saturday in April through October 31 season.

Outlet Creek (Klickitat County): Trout: Daily limit five.

Owens Pond (Pacific County): June 1 through October 31 season.

Ozette River (Clallam County), outside Olympic National Park: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Packwood Lake (Lewis County): Closed waters: All inlet streams and outlet from log boom to dam. Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit five, minimum length ten inches.

Padden Lake (Whatcom County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Palix River, including all forks (Pacific County): June 1 through last day in February season. Single point barbless hooks required July 1 through January 31 upstream to the confluence of the south and middle forks. Trout: Minimum length fourteen inches.

Palouse River and tributaries (Whitman County): Year around season.

Palmer Lake (Okanogan County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained. Burbot: Set line gear allowed.

Pampa Pond (Whitman County): Last Saturday in April through September 30 season. Fishing from any floating device prohibited.

Panhandle Lake (Mason County): Last Saturday in April through October 31 season.

Panther Creek (Chelan County): Closed waters.

Panther Creek (tributary to Wind River) (Skamania County): Closed waters.

Panther Lake (Kitsap/Mason counties): Last Saturday in April through October 31 season.

Para-Juvenile Lake (Adams/Grant counties): March 1 through July 31 season. Juveniles only.

Park Lake (Grant County): Last Saturday in April through September 30 season.

Parker Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Pass Lake (Skagit County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish.

Pataha Creek (Garfield County):

 Within the city limits of Pomeroy: Juveniles only.

 From city limits of Pomeroy upstream: Selective gear rules.

Patterson Lake (Okanogan County): Last Saturday in April through October 31 season.

Pattison Lake (Thurston County): Last Saturday in April through October 31 season.

Peabody Creek (Clallam County): Last Saturday in April through October 31 season. Juveniles only.

Pearygin Lake (Okanogan County): Last Saturday in April through September 30 season.

Pend Oreille River (Pend Oreille County): Year around season. All sloughs within the boundaries of the Kalispell Reservation except Calispell Slough: Closed waters.

Perch Lake (Grant County): Last Saturday in April through September 30 season.

Percival Creek (Thurston County): Trout: Minimum length fourteen inches.

Petit Lake (Pend Oreille County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Phalon Lake (Stevens County): Closed waters.

Phantom Lake (King County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Pheasant Lake (Jefferson County): Last Saturday in April to October 31 season.

Philippa Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Phillips Lake (Stevens County): Last Saturday in April through October 31 season.

Pilchuck Creek (Snohomish County), mouth to Highway 9 Bridge: June 1 through November 30 season. Selective fishing regulations. Trout: Minimum length fourteen inches. Additional December 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained.

Pilchuck River (Snohomish County)

 From its mouth to five hundred feet downstream from the Snohomish City diversion dam: December 1 through last day in February season. Fishing from any floating device prohibited. Trout: Minimum length fourteen inches. Wild steelhead may be retained.

 From 500 feet below diversion dam to diversion dam: Closed waters.

Pillar Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Pine Lake (King County): Last Saturday in April through October 31 season.

Pine Lake (Mason County): Last Saturday in April through October 31 season.

Pioneer Ponds (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Pipers (Carkeek) Creek (King County), from its mouth to its source, including tributaries: Closed waters.

Pleasant Lake (Clallam County): Trout: Kokanee minimum length eight inches, maximum length twenty inches.

Plummer Lake (Lewis County): Last Saturday in April through last day in February season.

Poacher Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Portage Creek (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Potholes Reservoir (Grant County): Crappie and bluegill: Combined daily limit twenty-five fish.

Potter's Pond (Stevens County): Last Saturday in April through October 31 season.

Pratt River (tributary to Middle Fork Snoqualmie) (King County): Selective gear rules. All species: Release all fish.

Prices Lake (Mason County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Promised Land Pond (Grays Harbor County): June 1 through October 31 season.

Purdy Creek (Mason County): June 1 through August 15 season. Trout: Minimum length fourteen inches.

Pysht River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Puyallup River (Pierce County):

From mouth to the Electron power plant outlet: June 1 through January 31 season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through January 31.

From mouth to the Soldier's Home Bridge in Orting: Additional February 1 through March 31 season. Trout: Minimum length fourteen inches.

Quail Lake (Adams County): Fly fishing only. Fishing from any floating device equipped with a motor prohibited. All species: Release all fish.

Quarry Pond (Walla Walla County): Fishing from any floating device prohibited.

Quilcene River (Jefferson County):

From mouth to upper boundary of Falls View Campground June 1 through last day in February season: Trout: Minimum length fourteen inches.

From Highway 101 Bridge upstream to the electric weir at the Quilcene National Fish Hatchery: Closed waters.

Quillayute River (Clallam County): June 1 through April 30 season. Trout: Minimum length fourteen inches. December 1 through April 30, one wild steelhead per day may be retained.

Quinault River, Upper (Jefferson County), from mouth at upper end of Quinault Lake to the National Park boundary: June 1 through March 31 season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through March 31.

Quincy Lake (Grant County): March 1 through July 31 season.

Raging River (King County), from its mouth to the Highway 18 Bridge: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Rainbow Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Rapjohn Lake (Pierce County): Last Saturday in April through October 31 season. Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Rat Lake (Okanogan County): December 1 through March 31 season.

Rattlesnake Creek (Yakima County): Selective gear rules. All species: Release all fish.

Rattlesnake Lake (King County): Last Saturday in April through October 31 season. Selective gear rules, except fishing from a floating device equipped with an electric motor allowed.

Ravensdale Lake (King County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length twelve inches.

Reflection Pond (Okanogan County): Last Saturday in April through October 31 season.

Renner Lake (Ferry County): Last Saturday in April through October 31 season.

Ridley Lake (Whatcom County): July 1 through October 31 season. Selective gear rules. Trout: Daily and possession limit one, minimum length eighteen inches.

Riffe Lake (Reservoir) (Lewis County): Lawful to fish up to the base of Swofford Pond Dam.

Rigley Lake (Stevens County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length fourteen inches.

Riley Lake (Snohomish County): Last Saturday in April through October 31 season.

Rimrock Lake (Reservoir) (Yakima County): Chumming permitted. Trout except kokanee: Daily limit five. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Ringold Springs Creek (Hatchery Creek) (Franklin County): Closed waters.

Robbins Lake (Mason County): Last Saturday in April through October 31 season.

Rock Creek (below Landsburg) (King County): Closed waters.

Rock Creek (Skamania County): June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Rocky Ford Creek and Ponds (Grant County): Fly fishing only. Fishing from bank only (no wading). All species: Release all fish.

Rocky Lake (Stevens County): Last Saturday in April through October 31 season. June 1 through October 31 selective gear rules and all species: Release all fish.

Roosevelt Lake (Ferry/Lincoln/Stevens counties): All species: Closed February 1 through May 31 in San Poil arm upstream from mouth of Manilla Creek, and April 1 through May 31 in Kettle arm upstream to Barstow Bridge. Trout: No

more than two over twenty inches in length. Only kokanee with a missing adipose fin and healed scar at the fin site may be retained. Walleye: No minimum size. Daily limit 8 fish not more than one of which may be longer than 20 inches. Release walleye 16 to 20 inches in length.

Rose Lake (Mason County): Last Saturday in April through October 31 season.

Ross Lake (Reservoir) (Whatcom County): July 1 through October 31 season. Selective gear rules, except fishing from a floating device equipped with a motor allowed. Trout: Daily limit three, possession limit six, minimum length thirteen inches.

Ross Lake tributary streams (Whatcom County), except Big Beaver Creek and Ruby Creek: Closed waters: From closed water markers near mouth upstream for one mile. Above closed water marker in tributaries not listed as closed: July 1 through October 31 season.

Round Lake (Okanogan County): Last Saturday in April through September 30 season.

Rowland Lakes (Klickitat County): Last Saturday in April through last day in February season.

Royal Lake (Adams County): Last Saturday in April through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Royal Slough (including Marsh Unit IV impoundments) (Adams County): Closed waters.

Ruby Creek (tributary to Ross Lake) (Whatcom County): Closed waters.

Rufus Woods Lake (Douglas County): Trout: Daily limit two.

Sacheen Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Saddle Mountain Lake (Grant County): Closed waters.

Sago Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Salmon Creek (Clark County), from mouth to 72nd Avenue N.E.: June 1 through October 31 season. Trout: Minimum length twelve inches. Release all steelhead and wild cutthroat. Additional season: November 1 through March 15. Trout: Minimum length twelve inches. Release wild cutthroat.

Salmon Creek, including all forks (Jefferson County): Closed waters.

Salmon Creek, North Fork and West Fork from mouth to South Fork (Okanogan County): Selective gear rules.

Salmon Creek (tributary of Naselle River) (Pacific County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Salmon Creek (Thurston County): Selective gear rules. Trout: Minimum length twelve inches.

Salmon River (Jefferson County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained (~~December~~) November 1 through last day in February.

Salt Creek (Clallam County): Trout: Minimum length fourteen inches.

From mouth to bridge on Highway 112: Additional November 1 through last day in February season. Trout: Minimum length fourteen inches.

Samish Lake (Whatcom County): Trout: Cutthroat trout daily limit two, minimum length fourteen inches.

Samish River (Whatcom County):

From its mouth to the old Highway 99 Bridge and from the department rack to the Hickson Bridge: June 1 through March 15 season. Trout: Minimum length fourteen inches.

From Highway 99 Bridge to department salmon rack: Closed waters.

Sammamish Lake (King County): Trout: No more than two over fourteen inches in length. Release all kokanee. Kokanee/sockeye under fifteen inches are kokanee while those fifteen inches and over are sockeye salmon. December 1 through June 30: Release all steelhead and rainbow trout over twenty inches in length.

Sammamish River (Slough) (King County), from the 68th Avenue N.E. Bridge to Lake Sammamish: Closed waters: All tributaries. June 1 through August 31 season. Selective gear rules. Trout: Release all trout.

Sandyshore Lake (Jefferson County): Last Saturday in April to October 31 season.

Sarge Hubbard Park Pond (Yakima County): Juveniles and holders of disability licenses only.

Satsop Lakes (Grays Harbor County): Last Saturday in April through October 31 season.

Satsop River, including all forks (Grays Harbor County): Selective gear rules on East Fork upstream from mouth of Bingham Creek. All open periods: Trout: Minimum length twelve inches. Release wild cutthroat, except on east fork above Bingham Creek.

From mouth to bridge at Schafer Park: Additional November 1 through March 31 season. Single point barbless hooks required September 16 through October 31.

Middle Fork (Turnow Branch), from mouth to Cougar-Smith Road: Additional November 1 through last day in February season. West Fork, from mouth to Cougar-Smith Road: Additional November 1 through last day in February season.

Sauk River (Skagit/Snohomish counties):

From mouth to the mouth of the White Chuck River: June 1 through last day in February season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

From the mouth of the White Chuck River to headwaters, including North and South Forks: Selective gear rules. Trout except Dolly Varden/Bull Trout: Minimum length

fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

From mouth to the Darrington Bridge: Additional March 1 through April 30 season. Selective gear rules. All species: Release all fish.

Sawyer, Lake (King County): Chumming permitted.

Scabrock Lake (Grant County): March 1 through July 31 season.

Schaefer Lake (Chelan County): Trout: Daily limit sixteen.

Sekiu River (Clallam County): All open periods: Trout: Minimum length fourteen inches.

From mouth to forks: Additional November 1 through last day in February season.

Shady Lake (King County): June 1 through October 31 season. Trout: No more than one over fourteen inches in length.

Shannon, Lake (Skagit County): Last Saturday in April through October 31 season. Chumming permitted. Trout: Minimum length six inches and maximum length eighteen inches.

Shellneck Creek (Yakima County): Closed waters.

Shelton Creek (Mason County): Closed waters.

Sherman Creek (Ferry County):

From the mouth at Lake Roosevelt upstream to four hundred feet above the water diversion dam for the hatchery: Closed waters, except December 1 through August 31 season from the mouth upstream to the hatchery boat dock.

Sherry Lake (Stevens County): Last Saturday in April through October 31 season.

Sherwood Creek (Mason County): Trout: Minimum length fourteen inches.

Sherwood Creek Mill Pond (Mason County): June 1 through October 31 season. Trout: Minimum length 14 inches, daily limit 2 fish.

Shiner Lake (Adams County): March 1 through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Shoe Lake (Mason County): Last Saturday in April through October 31 season.

Shoecraft Lake (Snohomish County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Shoveler Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Shye Lake (Grays Harbor County): June 1 through October 31 season.

Sidley Lake (Okanogan County): Trout: Daily limit two.

Siebert Creek (Clallam County): Trout: Minimum length fourteen inches.

Silent Lake (Jefferson County): Last Saturday in April through October 31 season.

Silver Creek (tributary to Cowlitz River) (Lewis County), mouth to USFS Road 4778: Selective gear rules. Trout: Minimum length twelve inches.

Silver Lake (Cowlitz County): Use of water dogs or salamanders for fishing prohibited. Bass: Minimum length fourteen inches.

Silver Lake (Pierce County): Last Saturday in April through October 31 season. Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Silver Lake (Whatcom County): Last Saturday in April through October 31 season.

Similkameen River (Okanogan County):

From mouth to Enloe Dam: June 1 through August 31 season. Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches. Additional season December 1 through March 31. Selective gear rules. Trout: Release all trout.

From Enloe Dam to Canadian border: Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish.

Sinlahekin Creek (Okanogan County), from Palmer Lake to Cecile Creek bridge: June 1 through August 31 season. Selective gear rules. Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish.

Sixteen Lake (Skagit County): Last Saturday in April through October 31 season.

Skagit River (Skagit/Whatcom counties):

From mouth to the Memorial Highway Bridge (Highway 536 at Mt. Vernon): Year around season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Release steelhead March 1 through May 31. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

From Memorial Highway Bridge (Highway 536 at Mt. Vernon) upstream to pipeline crossing at Sedro Woolley: June 1 through March 31 season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

From pipeline crossing at Sedro Woolley to Bacon Creek: June 1 through March 15 season except closed June 1 through August 31 between a line 200 feet above the east bank of the Baker River to a line 200 feet below the west bank of the Baker River. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

From Bacon Creek to Gorge Powerhouse: June 1 through last day in February season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily

limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

From the Gorge Powerhouse to Gorge Dam: Closed waters.

From the Dalles Bridge at Concrete to the mouth of Bacon Creek: Additional March 16 through April 30 season. Selective gear rules, except lawful to fish from a floating device equipped with a motor but not while under power. All species: Release all fish.

Skamokawa Creek (Wahkiakum County), mouth to forks just below Oatfield and Middle Valley Road: November 1 through March 15 season. All species: Release all fish other than steelhead. Trout: Minimum length twenty inches.

Skate Creek (tributary to Cowlitz River) (Lewis County): Trout: Daily limit five, no more than one over twelve inches in length.

Skokomish River (Mason County), mouth to forks: June 1 through last day in February season. Trout: Minimum length twelve inches. Release wild cutthroat.

Skokomish River, South Fork (Mason County):

From mouth to mouth of Church Creek: June 1 through last day in February season. Trout: Minimum length twelve inches. Release wild cutthroat.

From mouth of Church Creek to headwaters: Selective gear rules. Trout: Minimum length twelve inches.

Skokomish River, North Fork (Mason County):

From mouth to lower dam: June 1 through last day in February season. Trout: Minimum length twelve inches. Release wild cutthroat.

Above Lake Cushman, mouth to Olympic National Park boundary: June 1 through August 31 season. Selective gear rules. Trout: Release all fish.

Skookum Creek (Mason County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Skookum Lakes, North and South (Pend Oreille County): Last Saturday in April through October 31 season.

Skookumchuck Reservoir (Thurston County): June 1 through October 31 season. Trout: Daily limit two, minimum length twelve inches.

Skookumchuck River (Thurston County):

From mouth to four hundred feet below the outlet of the PP&L/WDFW steelhead rearing pond located at the base of the Skookumchuck Dam: Single point barbless hooks required October 16 through November 15. June 1 through April 30 season. Trout: Minimum length twelve inches. Release wild cutthroat.

From Skookumchuck Reservoir upstream and all tributaries: Selective gear rules. Trout: Minimum length twelve inches.

Skykomish River (Snohomish County):

From mouth to mouth of Sultan River: June 1 through last day in February season. Fishing from any floating device prohibited November 1 through last day in February from the boat ramp below Lewis Street Bridge at Monroe downstream two thousand five hundred feet. Trout except Dolly

Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February. Additional March 1 through April 30 season: Selective gear rules. Fishing from any floating device prohibited from the boat ramp below Lewis Street Bridge at Monroe downstream two thousand five hundred feet. All species: Release all fish.

From the mouth of the Sultan River to the forks: June 1 through March 31 season, except closed June 1 to 8:00 a.m. August 1 in those waters one thousand five hundred feet upstream and one thousand feet downstream of the outlet at Skykomish Rearing Ponds. Fishing from any floating device prohibited in the area one thousand five hundred feet upstream and one thousand feet downstream of the outlet at Skykomish Rearing Ponds. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

Skykomish River, North Fork (Snohomish County):

From mouth to one thousand feet downstream from Bear Creek Falls: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From one thousand feet below Bear Creek Falls to Deer Falls: Closed waters.

Skykomish River, South Fork (King/Snohomish counties):

From mouth to six hundred feet downstream from the Sunset Falls Fishway: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From a point six hundred feet downstream of the Sunset Falls Fishway to the Sunset Falls Fishway: Closed waters.

From Sunset Falls to source: June 1 through November 30 season. Selective gear rules. Trout: Minimum length fourteen inches. Whitefish: Additional December 1 through last day in February season. Release all fish other than whitefish.

Smith Creek (near North River) (Pacific County): June 1 through last day in February season. Single point barbless hooks required July 1 through January 31 upstream to the Highway 101 Bridge. Trout: Minimum length fourteen inches.

Snake River: Year around season. Closed to the taking of all trout April 1 through June 15. Trout: Daily limit six, minimum length ten inches, no more than two over twenty inches. Release all steelhead June 16 through August 31. Barbless hooks required when fishing for steelhead.

Closed waters: Within four hundred feet of the base of any dam and within a four hundred foot radius around the fish ladder entrance at Lyons Ferry Hatchery, within a two hundred foot radius upstream of the fish ladder exit above Lower Granite Dam, and within an area one thousand two hundred feet downstream from the base of the west lock gate at Little Goose Dam on the south bank of the Snake River and one hundred feet out into the river from said river bank.

Snipe Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Snohomish River (Snohomish County), including all channels, sloughs, and interconnected waterways, but excluding all tributaries: June 1 through March 31 season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

Snoqualmie River (King County):

From mouth to the falls: June 1 through March 31 season, except waters within the Puget Power tunnel at the falls and within fifty feet of any point on Puget Power's lower Plant # 2 building (north bank) are closed waters. June 1 through November 30 selective gear rules, except fishing from a floating device equipped with a motor allowed. Fishing from any floating device prohibited November 1 through March 31 from the mouth of Tokul Creek downstream to the boat ramp at Plumb access, about one-quarter mile. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From Snoqualmie Falls, including the North and South Forks: Selective gear rules. Trout: Minimum length ten inches. Additional November 1 through May 31 season. Selective gear rules. All species: Release all fish.

Snoqualmie Middle Fork from mouth to source including all tributaries: June 1 through May 31 season. Selective gear rules. All species: Release all fish.

Snow Creek (Jefferson County), including all tributaries except Crocker Lake: Closed waters.

Sol Duc River (Clallam County): June 1 through April 30 season. November 1 through April 30, selective gear rules from the concrete pump station at the Soleduck Hatchery to the Highway 101 Bridge downstream from Snider Creek. Trout: Minimum length fourteen inches. December 1 through April 30, from mouth to the concrete pump station at the Soleduck Hatchery, one wild steelhead per day may be retained.

Sooes River (Suez River) (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Soos Creek (King County), from mouth to salmon hatchery rack: June 1 through ~~(August)~~ October 31 season. Trout: Minimum length fourteen inches.

South Bend Mill Pond (Pacific County): Juveniles only.

South Prairie Creek (Pierce County), mouth to Page Creek: Closed waters.

Spada Lake (Reservoir) (Snohomish County): Last Saturday in April through October 31 season. Selective gear rules except fishing from a floating device equipped with an electric motor permitted. Trout: Minimum length twelve inches.

Spada Lake (Reservoir) tributaries (Snohomish County): Closed waters.

Spanaway Lake outlet downstream to the dam (approximately 800 feet) (Pierce County): Year around season.

Spearfish Lake (Klickitat County): Last Saturday in April through last day in February season.

Spectacle Lake (Kittitas County): Trout: Daily limit sixteen.

Spectacle Lake (Okanogan County): March 1 through July 31 season.

Spirit Lake (Skamania County): Closed waters.

Spokane River (Spokane County):

From SR 25 Bridge upstream to the Seven Mile Bridge, except Long Lake, formed by Long Lake Dam (see also Long Lake): Year around season except walleye. Trout: Daily limit five, no more than two over twenty inches in length. Walleye: Daily limit eight, no more than one over twenty inches in length. Release walleye sixteen inches to twenty inches in length, and April 1 through May 31 release all walleye.

From Seven Mile Bridge upstream to the Monroe Street Dam: Year around season. Selective gear rules. Trout: Daily limit one. Release wild trout.

From Monroe Street Dam upstream to Upriver Dam: Year around season.

From Upriver Dam upstream to the Idaho/Washington state line: Selective gear rules, except fishing from a floating device equipped with a motor permitted. Trout: Daily limit one, minimum length 12 inches.

Sportsman's Lake (San Juan County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Sprague Lake (Adams/Lincoln counties):

Waters northeast of the lakeside edge of the reeds to Danekas Road: Closed waters: Inlet stream (Negro Creek), April 1 through June 15. Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Waters southeast of the lakeside edge of the reeds to Danekas Road: July 1 through September 15 season. Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Spring Creek (Klickitat County): Trout: Daily limit five.

Spring Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Spring Lake (King County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Spring Lakes (Grant County): March 1 through July 31 season.

Squalicum Lake (Whatcom County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit two.

Starvation Lake (Stevens County): Last Saturday in April through May 31 season. Additional June 1 through October 31 season. Selective gear rules. All species: Release all fish.

Steel Lake (King County): Last Saturday in April through October 31 season.

Stehekin River (Chelan County), from the mouth to Agnes Creek: July 1 through October 31 season. Selective gear rules. Trout: Minimum length fifteen inches. Additional March 1 through June 30 season. Selective gear rules. All species: Release all fish.

Stetattle Creek (Whatcom County), from its mouth to mouth of Bucket Creek (one and one-half miles upstream): Closed waters.

Stevens Creek (Grays Harbor County), mouth to Highway 101 Bridge: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Stevens, Lake (Snohomish County): Chumming permitted. Bass: Daily limit one, minimum length eighteen inches.

Stevens Lake (Mason County): Last Saturday in April through October 31 season.

Stillaguamish River (Snohomish County):

From mouth to Warm Beach-Stanwood Highway, including all sloughs: Year around season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From Warm Beach-Stanwood Highway to the forks, except from the barrier dam (downstream of I-5) downstream two hundred feet which is closed waters: June 1 through last day in February season. Selective gear rules June 1 through November 30. Trout: Minimum length twenty inches June 1 through November 30. Release all fish except trout with a missing adipose fin and a healed scar at the fin site. Minimum length fourteen inches December 1 through last day in February and wild steelhead may be retained.

Stillaguamish River, North Fork (Snohomish County), from mouth to Swede Heaven Bridge: March 1 through November 30 all species: Fly fishing only and release all fish other than trout greater than twenty inches in length that are missing the adipose fin and have a healed scar at the fin site. Fishing from any floating device prohibited upstream of the Highway 530 Bridge at mile post 28.8 (Cicero Bridge). December 1 through last day in February: Trout: Minimum length fourteen inches and wild steelhead may be retained. Fishing from any floating device prohibited upstream of the Highway 530 Bridge at mile post 28.8 (Cicero Bridge).

Stillaguamish River, South Fork (Snohomish County):

From mouth to four hundred feet downstream of the outlet to fishway at Granite Falls: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From four hundred feet below the outlet of the end of the fishway to Mt. Loop Highway bridge above Granite Falls: Closed waters.

From Mt. Loop Highway Bridge above Granite Falls to source: June 1 through November 30 season.

Storm Lake (Snohomish County): Last Saturday in April through October 31 season.

Stratford/Brook Lake (Grant County): February 1 through September 30 season.

Stump Lake (Mason County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Suiattle River (Skagit County): Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

Sullivan Creek (Pend Oreille County), from Mill Pond upstream: Selective gear rules.

Sultan River (Snohomish County), from its mouth to a point four hundred feet downstream from the diversion dam at river mile 9.7: June 1 through last day in February season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

Sultan River, North and South Forks (Snohomish County): Closed waters.

Summit Lake (Stevens County): Last Saturday in April through October 31 season.

Summit Lake (Thurston County): Last Saturday in April through October 31 season.

Sunday Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Sutherland Lake (Clallam County): Chumming permitted.

Swamp Creek (tributary to Sammamish River) (Snohomish/King counties): Closed waters.

Swan Lake (Ferry County): Last Saturday in April through October 31 season.

Swan's Mill Pond (Stossel Creek) (King County): June 1 through October 31 season.

Swauk Creek (Kittitas County): Selective gear rules.

Swift Reservoir (Skamania County): Last Saturday in April through October 31 season.

Swofford Pond (Lewis County): Fishing from a floating device equipped with an internal combustion motor prohibited. Bass: Daily and possession limit two. Only bass less than twelve inches or over eighteen inches in length may be retained. Channel catfish: Minimum length twenty inches.

Tahuya River (Mason County): Trout: Minimum length twelve inches. Release wild cutthroat.

From mouth to Bear Creek-Dewatto Road crossing, additional November 1 through last day in February season. Trout: Minimum length twelve inches. Release wild cutthroat.

Taneum Creek (Kittitas County): Selective gear rules.

Tanwax Lake (Pierce County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Tapps Lake (Reservoir) intake canal (Pierce County), to within four hundred feet of the screen at Dingle Basin: Year around season.

Tarboo Lake (Jefferson County): Last Saturday in April through October 31 season.

Tate Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Taylor River (tributary to the Middle Fork Snoqualmie) (King County): Selective gear rules. All species: Release all fish.

Teal Lake (Jefferson County): Last Saturday in April to October 31 season.

Teaway River, including North Fork (Kittitas County): Selective gear rules.

Tenas Lake (Mason County): Last Saturday in April through October 31 season.

Tennant Lake (Whatcom County): Fishing from any floating device prohibited from first Friday in October through January 15.

Terrell, Lake (Whatcom County): Fishing from any floating device prohibited the first Saturday after Labor Day through the following Friday and from October 1 through January 15 except fishing from floating dock permitted. Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Thomas Lake (Stevens County): Last Saturday in April through October 31 season.

Thornton Creek (tributary to Lake Washington) (King County): Closed waters.

Tibbetts Creek (tributary to Lake Sammamish) (King County): Closed waters.

Tieton River (Yakima County): Lawful to fish to base of Tieton (Rimrock) Dam. Trout: Daily limit five, no minimum length. Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish.

Tieton River, North Fork (Yakima County), upstream from Rimrock Lake: Closed waters: Spillway channel. June 1 through August 15 season.

Tieton River, South Fork (Yakima County): From mouth to bridge on USFS Rd. 1070 (approximately 12.5 miles): Closed waters.

Tiger Lake (Kitsap/Mason counties): Last Saturday in April through October 31 season.

Tilton River (Lewis County), from mouth to West Fork: June 1 through March 31 season. Trout: Daily limit five, no more than one over twelve inches in length. (~~Wild steelhead may be retained December 1 through March 31.~~)

Tilton River, East, North, South and West Forks (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Toad Lake (Whatcom County): Last Saturday in April through October 31 season.

Tokul Creek (King County):

From mouth to the posted cable boundary marker located approximately seven hundred feet upstream of the mouth: December 1 through March 31 season, closed 5:00 p.m. to 7:00 a.m. daily. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From the posted cable boundary marker located approximately seven hundred feet upstream of the mouth to the railroad trestle: Closed waters.

Tolt River (King County):

From mouth to the USGS trolley cable near the confluence of the North and South Forks: June 1 through last day in February season. June 1 through November 30, selective gear rules. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From the USGS trolley cable to the mouth of Yellow Creek on the North Fork, and to the dam on the South Fork: Closed waters.

From mouth of Yellow Creek upstream on North Fork: Year-round season. Trout: Selective gear rules and release all trout.

From dam upstream on South Fork: Selective gear rules. Trout: Minimum length ten inches.

Totem Lakes 1 and 2 (Whatcom County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained. Daily limit may not contain more than three bass over fifteen inches in length.

Touchet River (Columbia/Walla Walla counties):

From mouth to confluence of north and south forks: June 1 through October 31 season. Trout: Daily limit five. Additional season: November 1 through April 15. Barbless hooks required. All species: Release all fish except steelhead and brown trout. From confluence of north and south forks upstream, including Wolf Fork: June 1 through October 31 season. Selective gear rules. Release all steelhead. Tributaries other than Wolf Fork: Closed waters.

Toutle River (Cowlitz County):

From mouth to forks, and North Fork from the mouth to the posted deadline below the fish collection facility: June 1 through November 30 season. All species: Release all fish except steelhead with a missing adipose fin and a healed scar at the fin site. Trout: Minimum length twenty inches.

From the posted deadline below the fish collection facility upstream to the headwaters, including all tributaries, but excepting Castle and Coldwater Lakes: Closed waters.

Toutle River, South Fork (Cowlitz County), mouth to source: Closed waters: All tributaries. June 1 through November 30 season. All species: Release all fish except steelhead with a missing adipose fin and a healed scar at the fin site. Trout:

Minimum length twenty inches. Mouth to 4100 Road Bridge: Additional December 1 through March 31 season. Selective gear rules. All species: Release all fish except steelhead with a missing adipose fin and a healed scar at the fin site.

Tradition Lake (King County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Trapper Lake (Chelan County): Trout: Daily limit two.

Trout Creek (tributary to Wind River) (Skamania County): Closed waters.

Trout Lake (Ferry County): Last Saturday in April through October 31 season.

Trout Lake (tributary to Big White Salmon River) (Klickitat County): June 1 through October 31 season.

Tucannon River (Columbia/Walla Walla counties): Closed waters: All tributaries.

From the Highway 261 Bridge upstream to Turner Road Bridge: Trout: Daily limit five, no more than two of which may be steelhead. Additional November 1 through April 15 season. Barbless hooks required. All species: Release all fish except steelhead and whitefish.

From the Turner Road Bridge upstream to the Cummings Creek Bridge: Selective gear rules June 1 through October 31. Additional season November 1 through April 15. Barbless hooks required. All species: Release all fish except steelhead and whitefish.

From the Cummings Creek Bridge upstream to a sign referencing Deer Lake about 3/4 mile upstream of the Tucannon hatchery: Closed waters.

From a sign referencing Deer Lake to the Panjab Creek Bridge: Selective gear rules. Trout: Legal to retain Dolly Varden/Bull Trout in the daily trout limit, minimum length twenty-four inches.

From the Panjab Creek Bridge upstream: Closed waters.

Tucannon River tributaries (Columbia/Walla Walla counties): Closed waters.

Tunnel Lake (Skamania County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Twin Lake (Jefferson County): Last Saturday in April through October 31 season.

Twin Lakes (Chelan County) and tributaries and outlet stream to junction with the Napeequa River: Closed waters.

Twisp River (Okanogan County), from mouth to South Fork Twisp River: Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches.

Tye River (King County): Foss River to Alpine Falls June 1 through October 31 season: Selective gear rules. Trout: Minimum length fourteen inches. Whitefish: Additional November 1 through last day in February season. Release all fish other than whitefish. From Alpine falls upstream: Trout: Minimum size ten inches.

U Lake (Mason County): Last Saturday in April through October 31 season.

Umtanum Creek (Kittitas County): Selective gear rules.

Uncle John Creek (Mason County): Closed waters.

Union Creek (Yakima County): From mouth upstream to falls (approximately 1/4 mile): Closed waters.

Union River (Mason County):

From mouth to watershed boundary: Trout: Minimum length fourteen inches.

From mouth to lower bridge on the Old Belfair Highway, additional November 1 through last day in February season. Trout: Minimum length fourteen inches.

From watershed boundary to source, including all tributaries: Closed waters.

Upper Wheeler Reservoir (Chelan County): Closed waters.

Valley Creek (Clallam County): Last Saturday in April through October 31 season. Juveniles only.

Vance Creek (Mason County): Trout: Minimum length fourteen inches.

Vance Creek/Elma Ponds (Grays Harbor County): Pond One: Last Saturday in April through October 31 season. Juveniles only. Pond Two: Last Saturday in April through October 31 season.

Vancouver Lake and all other waters west of Burlington-Northern Railroad from Columbia River drawbridge near Vancouver downstream to Lewis River (Clark County): Trout: Daily limit two, minimum length twelve inches.

Vanes Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Vic Meyers (Rainbow) Lake (Grant County): Last Saturday in April through September 30 season.

Voight's Creek (Pierce County): From mouth to Highway 162 Bridge: Closed waters.

Waddell Creek (Thurston County): Selective gear rules. Trout: Minimum length twelve inches.

Wagners Lake (Snohomish County): Last Saturday in April through October 31 season.

Waitts Lake (Stevens County): Last Saturday in April through last day in February season.

Walker Lake (King County): Last Saturday in April through October 31 season.

Wallace River (Snohomish County):

From its mouth to the first Burlington-Northern Railroad bridge downstream of the Highway 2 Bridge: June 1 through September 1 season. Closed waters: From the first Burlington-Northern Railroad bridge (below Highway 2) to a point two hundred feet upstream of the water intake of the salmon hatchery. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

From the mouth to mouth of Olney Creek: Additional November 1 through last day in February season. Fishing

from any floating device prohibited. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

Walla Walla River (Walla Walla County):

From mouth to the Touchet River: Year around season. Trout: Barbless hooks required when fishing for steelhead. Release trout April 1 through May 31.

From the Touchet River upstream to state line: Trout: All tributaries except Mill Creek, maximum length twenty inches. Additional season November 1 through April 15. All species: Barbless hooks required and release all fish except steelhead.

Walupt Lake (Lewis County): Closed waters: All inlet streams. Last Saturday in April through October 31 season. Selective gear rules except fishing from devices equipped with motors permitted. Trout: Minimum length ten inches.

Wannacut Lake (Okanogan County): Last Saturday in April through October 31 season.

Wapato Lake (Chelan County): Last Saturday in April through October 31 season. From August 1 through October 31: Selective gear rules except fishing from a device equipped with an internal combustion engine permitted. Trout: Release all trout.

Wapato Lake (Pierce County): Juveniles only.

Ward Lake (Ferry County): Last Saturday in April through October 31 season.

Ward Lake (Thurston County): Last Saturday in April through October 31 season.

Warden Lake and Warden Lake, South (Grant County): March 1 through July 31 season.

Washburn Island Pond (Okanogan County): April 1 through September 30 season. Bass: Only bass less than 12 inches or over fifteen inches in length may be retained. Fishing from a floating device equipped with an internal combustion motor prohibited.

Washington, Lake, including that portion of the Sammamish River from the 68th Avenue N.E. Bridge downstream (King County): Fishing from floating device prohibited one hundred yards either side of the floating bridges. Chumming permitted. Trout: December 1 through last day in February: Release all steelhead and rainbow trout over twenty inches in length. March 1 through June 30: Minimum length twelve inches, and release all steelhead and rainbow trout over twenty inches in length. Kokanee/sockeye under fifteen inches are kokanee while those fifteen inches and over are sockeye salmon.

Washington, Lake, Ship Canal (King County) (waters east of a north-south line 400 feet west of the fish ladder at the Chittenden Locks and west of a north-south line at the eastern ends of the concrete abutments east of the Montlake Bridge): West of Fremont Bridge: Fishing from floating device prohibited. East of Fremont Bridge: Chumming permitted.

From west boundary to a north-south line 400 feet east of the eastern end of the northern wing wall of Chittenden Locks: Closed waters.

From 400 feet east of the eastern end of the northern wing wall of Chittenden Locks to the east boundary: Open year around. Trout: December 1 through last day in February daily limit five, no minimum length. Release steelhead and rainbow trout over twenty inches in length. March 1 through June 30, daily limit five, minimum length twelve inches. Release steelhead and rainbow trout over twenty inches in length. July 1 through November 30, daily limit five, no minimum length. Kokanee/sockeye less than fifteen inches in length are kokanee and fifteen inches and over in length are sockeye salmon.

Washougal River (Clark County):

From mouth to bridge at Salmon Falls: June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat. Release steelhead August 16 through October 15.

From mouth to Mt. Norway Bridge: Additional April 16 through May 31 season. All species: Release all fish except steelhead with a missing adipose fin and a healed scar at the fin site.

From bridge at Salmon Falls to its source: Closed waters.

Washougal River, West (North) Fork (Clark/Skamania counties):

From mouth to the water intake at the department hatchery: Closed waters.

From intake at department hatchery to source: June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Watson Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Wenas Lake (Yakima County): Trout: Daily limit five, of which not more than two may be brown trout.

Wenatchee Lake (Chelan County): Chumming permitted. Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen. Kokanee/sockeye under sixteen inches will be considered kokanee while those sixteen inches and over will be considered sockeye salmon.

Wenatchee River (Chelan County):

From mouth to Lake Wenatchee: June 1 through August 31 season. Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches. Whitefish: Additional season December 1 through March 31. Release all fish except whitefish. Selective gear rules.

West Twin River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Whatcom Creek (Whatcom County):

From mouth to stone bridge at Whatcom Falls Park: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From stone bridge at Whatcom Falls Park upstream to Lake Whatcom: Last Saturday in April through October 31 season. Juveniles only. Trout: No minimum length.

Whatcom, Lake (Whatcom County): Last Saturday in April through October 31 season, except those waters between the Electric Avenue Bridge and the outlet dam are closed waters: Trout: Daily limit may contain no more than one cutthroat trout, minimum cutthroat length eighteen inches.

Whatcom, Lake, tributaries (Whatcom County): Closed waters.

White River (Chelan County), from mouth upstream to White River Falls: Selective gear rules. Trout: Maximum length twenty inches.

White (Stuck) River (Pierce County):

From mouth to R Street Bridge in Auburn: June 1 through September 30: Closed waters. October 1 through last day in February season: Trout: Minimum length fourteen inches.

From R Street Bridge to Highway 410 Bridge at Buckley, except waters of Puget Power canal, including the screen bypass channel, above the screen at Dingle Basin are closed waters: October 1 through October 31 season only. Trout: 14 inch minimum size.

From the Weyerhaeuser 6000 Road Bridge (Bridge Camp) to its source: Whitefish: Additional November 1 through January 31 season. Release all fish except whitefish.

Whitechuck River (Snohomish County): Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

White Salmon River (Klickitat/Skamania counties):

From mouth to powerhouse: Year around season. Trout: Minimum length fourteen inches.

From powerhouse to within four hundred feet of Northwestern Dam: November 16 to June 15 season. Trout: Minimum length fourteen inches.

From gas pipeline crossing above Northwestern Lake to Gilmer Creek: Selective gear rules. Trout: Minimum length twelve inches.

Whitestone Lake (Okanogan County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Wide Hollow Creek (Yakima County): Trout: Daily limit five, no minimum length.

Widgeon Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Wildberry Lake (Mason County): Last Saturday in April through October 31 season.

Wildcat Lake (Kitsap County): Last Saturday in April through October 31 season.

Wilderness Lake (King County): Last Saturday in April through October 31 season.

Willame Lake (Lewis County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length fifteen inches.

Willapa River (Pacific County), including all forks: Closed waters: Four hundred feet below falls on South Fork to falls.

From department boat launch in South Bend upstream: Single point barbless hooks required July 1 through October 31 upstream to Forks Creek. Trout: Minimum length fourteen inches.

From department boat launch in South Bend to Forks Creek: Additional November 1 through March 31 season. Fishing from any floating device prohibited from the bridge on Willapa Road (Camp One Bridge) to Forks Creek. Single point barbless hooks required November 1 through January 31. Trout: Minimum length fourteen inches.

South Fork: Additional November 1 through last day of February season. Trout: Minimum length fourteen inches.

Williams Creek (Pacific County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Williams Lake (Spokane County): Last Saturday in April through September 30 season.

Williams Lake (Stevens County): December 1 through March 31 season.

Willow Lake (Whatcom County): July 1 through October 31 season. Selective gear rules. Trout: Daily and possession limit one, minimum length eighteen inches.

Wilson Creek (two branches within Ellensburg city limits) (Kittitas County): Juveniles only. Trout: Daily limit five, no minimum length.

Winchester Wasteway (Grant County): Within Winchester Game Reserve: February 1 through September 30 season.

Wind River (Skamania County):

Mouth to four hundred feet below Shipherd Falls: June 1 through March 15 season. Trout: Minimum length fourteen inches.

From four hundred feet below to one hundred feet above Shipherd Falls fish ladder: Closed waters.

From one hundred feet above Shipherd Falls to source: June 1 through November 30 except closed from an upper boundary sign along Carson National Fish Hatchery grounds to a lower boundary marker 800 yards downstream June 1 through August 31. All species: Selective gear rules.

Tyee Springs: Closed waters.

From one hundred feet above Shipherd Falls fish ladder to source, including all tributaries: June 1 through November 30 season. Trout: Minimum length fourteen inches.

Winston Creek (tributary to Cowlitz River) (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Wiser Lake (Whatcom County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Wishkah River (Grays Harbor County), including all forks: Closed waters: Mainstem from four hundred feet below outlet of dam at Wishkah Rearing Ponds (formerly Mayr Bros.)

to dam. Trout: Minimum length twelve inches. Release wild cutthroat.

From the mouth to four hundred feet below outlet: Additional November 1 through March 31 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Wood Lake (Mason County): Last Saturday in April through October 31 season.

Woodland Creek (Thurston County): Trout: Minimum length fourteen inches.

Wooten Lake: Last Saturday in April through October 31 season.

Wynoochee River (Grays Harbor County): Single point barbless hooks required September 16 through October 31 upstream to 7400 line bridge above mouth of Schafer Creek. Trout: Minimum length twelve inches. Release wild cutthroat.

From mouth to 7400 line bridge above mouth of Schafer Creek: Additional November 1 through March 31 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Wynoochee Reservoir (Grays Harbor County): June 1 through October 31 season. Trout: Daily limit two, minimum length twelve inches.

Yakima River (Yakima County): Release all steelhead in mainstem and tributaries.

From mouth to four hundred feet below Roza Dam: Year around season. Trout: Minimum length twelve inches and maximum length twenty inches. Release all trout April 1 through May 31.

From Roza Dam to four hundred feet below Easton Dam: Year around season. Fishing from floating devices equipped with motors allowed only from the U.S. Bureau of Reclamation restricted area signs at Roza Dam upstream to the boat launch ramp on the Roza Access Area (approximately one-half mile). Trout: Selective gear rules, and release all trout. Whitefish: Bait and one single-pointed, barbless hook only may be used for whitefish December 1 through last day in February.

From Lake Easton to Keechelus Dam: Selective gear rules.

Yakima Sportsmen's Park Ponds (Yakima County): Juveniles only.

Yale Reservoir (Cowlitz County): Trout: Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Yellowjacket Creek (tributary to Cispus River) (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Yellowjacket Ponds (Lewis County): Last Saturday in April through last day in February season. Trout: No more than one over twelve inches in length.

Yokum Lake (Pend Oreille County): Last Saturday in April through October 31 season.

(3) Specific marine water exceptions to state-wide rules:

(a) Marine water area codes and boundaries:

(i) Area 1 (Ilwaco): Waters west of the Buoy 10 Line and north to Leadbetter Point.

(ii) Area 2 (Westport-Ocean Shores): From Leadbetter Point north to the Queets River. Area 2 excludes waters of Willapa Bay and Grays Harbor.

(iii) Area 2-1: Willapa Bay east of a line from Leadbetter Point to Willapa Channel Marker 8 (Buoy 8) then to the westerly most landfall on Cape Shoalwater.

(iv) Area 2-2: Grays Harbor east of a line from the outermost end of the north jetty to the outermost exposed end of the south jetty.

(v) Area 3 (La Push): From the Queets River north to Cape Alava.

(vi) Area 4 (Neah Bay): From Cape Alava north and inside Juan de Fuca Strait to the Sekiu River.

(vii) Area 5 (Sekiu and Pillar Point): From mouth of Sekiu River east to Low Point, mouth of the Lyre River.

(viii) Area 6 (East Juan de Fuca Strait): From Low Point east to the Partridge Point-Point Wilson line north to the line from Trial Island (near Victoria, B.C.) - Navigation Buoy BW "R" - Smith Island - the most northeasterly of the Lawson Reef lighted buoys (RB1 QK Fl Bell) - Northwest Island - the Initiative 77 marker on Fidalgo Island.

(ix) Area 7 (San Juan Islands): All marine waters north of the line described under Area 6 to the United States-Canadian boundary.

(x) Area 8 (Deception Pass, Hope and Camano Islands): Line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island east through Deception Pass, including all waters east of Whidbey Island to the Possession Point - Shipwreck Line.

(xi) Area 8-1 (Deception Pass and Hope Island): East of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, south of the Burlington Northern Railroad Bridge at the north end of Swinomish Slough, north of the Highway 532 Bridge between Camano Island and the mainland, and westerly of a line from the East Point Light on Whidbey Island to the Saratoga Pass Light # 2 on Camano Island (F1 red 4 sec.).

(xii) Area 8-2 (Port Susan and Port Gardner): East of a line from the East Point Light on Whidbey Island to the Saratoga Pass Light # 2 on Camano Island (F1 red 4 sec.) and north of a line from the south tip of Possession Point 110 degrees true to a shipwreck on the opposite shore.

(xiii) Area 9 (Admiralty Inlet): All waters inside and south of the Partridge Point-Point Wilson Line and a line projected from the southerly tip of Possession Point 110 degrees true to a shipwreck on the opposite shore and northerly of the Hood Canal Bridge and the Apple Cove Point-Edwards Point Line.

(xiv) Area 10 (Seattle-Bremerton): From the Apple Cove Point-Edwards Point Line to a line projected true east-west through the northern tip of Vashon Island.

(xv) Area 11 (Tacoma-Vashon Island): From the northern tip of Vashon Island to the Tacoma Narrows Bridge.

(xvi) Area 12 (Hood Canal): All contiguous waters south of the Hood Canal Bridge and adjacent waters north of the Hood Canal Bridge when fishing from the pontoon beneath the bridge.

(xvii) Area 13 (South Puget Sound): All contiguous waters south of the Tacoma Narrows Bridge.

(b) Marine waters regulations: These regulations apply to all marine waters contained within the boundaries of Washington state, within Puget Sound, Hood Canal, the Strait of Juan de Fuca, the San Juan Islands, the Strait of Georgia, and the Pacific Ocean, including estuaries (river mouths) from salt water upstream to a line between the outermost headlands measured at the highest high tide (usually the debris line furthest inshore on surrounding beaches), unless otherwise described under area regulations (see individual areas, below):

(i) Fishing hours: Twenty-four hours per day year around, except those waters of Area 10 west of the Lake Washington Ship Canal to a north-south line 175 feet west of the Burlington-Northern Railroad Bridge are closed waters.

(ii) License requirements: A valid current Washington state department of fish and wildlife game fish license, and, if appropriate, a steelhead license, is required to fish for game fish including steelhead in marine waters. All steelhead taken from marine areas shall be entered on the steelhead catch record card using the words Marine Area and followed by the appropriate marine area code number.

(iii) Gear restrictions: Angling gear only, and in those waters of Area 10 downstream of the First Avenue South Bridge to an east-west line through southwest Hanford Street on Harbor Island and parallel to southwest Spokane Street where it crosses Harbor Island, nonbuoyant lure restriction July 1 through November 30. In all areas, underwater spearfishing, spearing, gaffing, clubbing, netting, or trapping game fish is unlawful.

(iv) Trout: Daily limit two fish, minimum length fourteen inches, except release Dolly Varden/Bull Trout in all areas, release wild cutthroat in Marine Areas 12 and 13, and release all trout November 1 through May 31 in Chambers Bay and that portion of Marine Area 13 inside a line from Gordan Point to the dock at Pioneer gravel pit (second gravel pit approximately 1.2 miles north of Chambers Bay).

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.

July 14, 1998

Joseph D. Lehman
Secretary

Chapter 137-100 WAC

OCCUPATIONAL EXPOSURE TO HUMAN IMMUNOCDEFICIENCY VIRUS (HIV)

Reviser's note: The spelling error in the above material occurred in the copy filed by the Department of Corrections and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 137-100-002 Purpose. The purpose of this chapter shall be to insure coordination of the provisions of SHB 1605, RCW 70.24.105, RCW 70.24.340, RCW 70.24.370 and chapter 72.09 RCW by the department of corrections and the department of health.

NEW SECTION

WAC 137-100-011 Definitions. The following definitions shall apply in interpreting this chapter:

- (1) Correctional staff member means a department of corrections employee, an individual providing services under contract to the department, and volunteers.
- (2) Department means the department of corrections.

NEW SECTION

WAC 137-100-021 Medical records available. The department will make available an offenders sexually transmitted disease status to any correctional staff member who has experienced a substantial exposure by that offender. Should such records be nondiscloseable, the department shall advise the correctional staff member of the process to receive that information. This process shall be facilitated by the health care manager or infection control coordinator.

WSR 98-15-084
PERMANENT RULES
DEPARTMENT OF CORRECTIONS
[Filed July 16, 1998, 11:13 a.m.]

Date of Adoption: July 14, 1998.

Purpose: To establish procedures necessary for assuring effective communication required between health officials and correctional and jail administrators in the event of substantial exposure to the bodily fluids of an offender or detainee in the course of official duties.

Statutory Authority for Adoption: RCW 70.24.107.

Adopted under notice filed as WSR 98-02-074 on January 7, 1998.

Changes Other than Editing from Proposed to Adopted Version: Proposed WAC 137-100-040 was not adopted. The department does not have this authority. WAC sections have been renumbered to reflect the department's repeal of WAC 137-100-001, 137-100-010, 137-100-020, and 137-100-030 filed November 26, 1997.

PERMANENT

NEW SECTION

WAC 137-100-031 Request for records - by correctional staff members. A request for test results shall be made in writing. At a minimum, the request shall include:

- (1) Name of the person requesting the record;
- (2) Nature of the exposure, including date and time;
- (3) Name of the offender; and
- (4) DOC number of the offender, if known.

The request shall be accompanied by a copy of the report of personal injury (form DOC 3-133) and a post-exposure incident report (DOC form 3-184) outlining the circumstances and results of the exposure incident.

WSR 98-15-089
PERMANENT RULES
DEPARTMENT OF HEALTH
 (Board of Hearing and Speech)
 [Filed July 16, 1998, 3:02 p.m.]

Date of Adoption: June 24, 1998.

Purpose: 1996 legislative amendments to chapter 18.35 RCW define hearing instrument fitting and dispensing activities and assistive listening devices. WAC 246-828-005 repeats RCW 18.35.010 (1) and (9).

Citation of Existing Rules Affected by this Order: Repealing WAC 246-828-005.

Statutory Authority for Adoption: RCW 18.35.010.

Adopted under preproposal statement of inquiry filed as WSR 98-08-112 on April 1, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 23, 1998
 Delores E. Spice
 Executive Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-828-005 Fitting and dispensing activities requiring license defined.

WSR 98-15-089A
PERMANENT RULES
DEPARTMENT OF HEALTH
 (Board of Hearing and Speech)
 [Filed July 16, 1998, 3:02 p.m.]

Date of Adoption: June 24, 1998.

Purpose: The rule defines temporary credentialing standards for applicants who were engaged in the professions of speech-language 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.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-828-015.

Statutory Authority for Adoption: RCW 18.35.080.

Adopted under preproposal statement of inquiry filed as WSR 98-08-113 on April 1, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 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.

June 23, 1998
 Delores E. Spice
 Executive Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-828-015 Temporary credentialing standards.

WSR 98-15-114
PERMANENT RULES
LOTTERY COMMISSION
 [Filed July 20, 1998, 3:45 p.m.]

Date of Adoption: July 17, 1998.

Purpose: To amend the procedure set forth in WAC 315-06-123 governing the assignment of prizes.

Citation of Existing Rules Affected by this Order: Amending WAC 315-06-123.

Statutory Authority for Adoption: RCW 67.70.040.

PERMANENT

Adopted under notice filed as WSR 98-09-103 on April 9 [22], 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.

July 19, 1998

Mary Jane Ferguson
Rules Coordinator

[AMENDATORY SECTION (Amending WSR 97-20-052, filed 9/24/97)]

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. 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 ser-

vice 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.

WSR 98-15-115
PERMANENT RULES
LOTTERY COMMISSION

[Filed July 20, 1998, 4:50 p.m.]

Date of Adoption: July 17, 1998.

Purpose: To establish game play rules and criteria for determining winners for a new on-line game, "Lucky for Life."

Statutory Authority for Adoption: RCW 67.70.040.

Adopted under notice filed as WSR 98-12-093 on June 3, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New [12], Amended 12, 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.

July 19, 1998

Mary Jane Ferguson

Rules Coordinator

NEW SECTION

WAC 315-36-010 What is Lucky for Life and how do I play? (1) Lucky for Life is an on-line lottery game in which you purchase a computer-generated ticket and try to match your set of four numbers to the winning set of four numbers, chosen by the lottery. The game is conducted in accordance with the rules for on-line games found in chapter 315-30 WAC and the general rules found in chapter 315-06 WAC.

(2) To play Lucky for Life, you first pick one set of four numbers from "00" to "99" for a chance to win the grand prize of \$1,000 per week for the rest of your life, as specified in WAC 315-36-110. Or you can let the computer pick this set of numbers for you. If you have the computer pick for you, this is called a "quick pick" or "quick play."

(3) Next, the computer will generate twenty additional sets of four numbers each from "00" to "99" for you. These sets will all be quick picks, that is, the computer selects them for you. You cannot pick any of these additional sets of numbers yourself. You will receive a computer printed ticket containing all twenty-one sets of numbers.

(4) If any one of the twenty-one sets on the ticket match two, three, or four of the numbers in the winning set of four numbers, in any order, you win a prize as specified in WAC 315-36-030.

(5) A Lucky for Life ticket may look similar to this:

Lucky for Life

LIFETIME CASH

A. 05 20 60 73

\$50,000 PRIZE

B. 12 18 25 99 C. 22 25 36 38

\$25,000 PRIZE

D. 05 10 12 20 E. 32 35 46 48

F. 25 67 76 80 G. 33 34 46 69

\$10,000 PRIZE

H. 00 39 44 77 I. 01 23 69 98

J. 04 13 30 34 K. 36 39 80 81

L. 29 41 52 61 M. 02 03 21 99

\$5,000 PRIZE

N. 10 20 21 31 O. 24 53 60 81

P. 20 22 43 63 Q. 71 82 92 93

R. 53 63 70 90 S. 70 82 98 99

T. 40 51 83 90 U. 63 64 68 88

NEW SECTION

WAC 315-36-020 How much does a ticket cost? One Lucky for Life ticket with twenty-one sets of four numbers each costs \$2.

NEW SECTION

WAC 315-36-030 What are the prizes for Lucky for Life? (1) The grand prize is \$1,000 per week for life, as specified in WAC 315-36-110. This is the prize for matching all four of the numbers in the first set designated on the ticket to the winning set of four numbers.

(2) The prizes for matching all four numbers in any of the remaining twenty sets to the winning numbers are specified under headings on the ticket, and are as follows:

<u>Number of Sets</u>	<u>Prize Bracket</u>
Two	\$50,000
Four	\$25,000
Six	\$10,000
Eight	\$5,000

(3) For matching three numbers in one of your sets to three numbers in the winning set, you win fifty dollars. For matching two numbers in one of your sets to two numbers in the winning set of numbers, you win a prize of four dollars. You may win no more than one prize for each set of numbers.

(4) All prize payments are subject to federal income tax withholding requirements and debt checks, pursuant to RCW 67.70.255.

PERMANENT

NEW SECTION

WAC 315-36-040 Can I win more than once on one ticket? Yes. If your ticket has more than one set with two, three, or four numbers which match the winning numbers, you will receive the total of the prizes for each matching set.

NEW SECTION

WAC 315-36-050 How is the winning set of numbers selected? Lottery officials conduct the drawing for the winning set of numbers, as specified in the general rules for on-line game drawings, WAC 315-30-040. The director has the discretion to specify the means for randomly drawing the winning numbers. Each drawing shall determine, at random, four numbers from "00" through "99," which will be the winning set of numbers. No two of the four numbers in the winning set will be identical. Any drawn numbers will not be declared winning numbers until the drawing is validated by the lottery. The winning numbers shall be used to determine all Lucky for Life winners for that drawing. If a drawing is not validated, another drawing will be conducted to determine the four numbers, which will be the winning set of numbers. The drawing shall not be invalidated based on the liability of the lottery.

NEW SECTION

WAC 315-36-060 How often is the winning set of numbers chosen? The Lucky for Life drawing for the winning set of numbers is held at least once a week and may be held up to once a day, seven days a week, at the discretion of the director of the lottery. The director in addition has the discretion to change the drawing schedule or cancel the drawing if it falls on a holiday.

NEW SECTION

WAC 315-36-070 Where can I buy or redeem Lucky for Life tickets? You can buy or redeem Lucky for Life tickets only from a lottery retailer licensed by the director of the lottery to sell on-line, computer generated tickets. You can buy or redeem the tickets during no less than seventeen hours each day, according to a schedule determined by the director of the lottery, but each on-line retailer will sell and redeem tickets only during their normal business hours. In redeeming tickets, a retailer may only pay out prizes up to \$600. For prizes over \$600, you must obtain a lottery claim form as described in WAC 315-06-120, and submit your ticket to the lottery by mail or in person. Tickets will be validated and redeemed in accordance with the general rules for on-line games found in chapter 315-30 WAC. Federal income tax must be withheld from prize payments as required by law.

NEW SECTION

WAC 315-36-080 What information is included on a Lucky for Life ticket and playslip? The front of the ticket includes the selection of numbers, amount wagered, drawing date, and validation and reference numbers. The playslip

includes an estimate of the probability of purchasing a winning ticket, player instructions, and player information.

NEW SECTION

WAC 315-36-090 What are the odds of winning Lucky for Life? The odds of winning any prize are 1 in 7. The odds of winning specific prizes are as follows:

"Lifetime Cash" type Grand Prize:	1: 3,921,225
"\$50,000 Prize":	1: 1,960,613
"\$25,000 Prize":	1: 980,306
"\$10,000 Prize":	1: 653,538
"\$5,000 Prize":	1: 490,153
Match three numbers \$50 Prize:	1: 486
Match two numbers \$4 Prize:	1: 7

NEW SECTION

WAC 315-36-100 If more than one person per drawing wins the grand prize, does each person receive the entire prize of \$1,000 for life or is the prize split among the winners? Each person up to three winners wins the grand prize of \$1,000 per week for life. If more than three persons win the grand prize in any one drawing, then three grand prizes (for a total of \$3,000 per week for life) will be split equally among the total number of grand prize winners for that drawing.

NEW SECTION

WAC 315-36-110 How is the "Lifetime Cash" type grand prize paid? (1) You must be a natural person (e.g., not a legal entity such as a corporation) to claim the prize of \$1,000 per week for life.

(2) At the discretion of the director, winners may be permitted to choose grand prize payments either made once a year for \$52,000 or made once per week for \$1,000 per week for a total of 52 payments in one calendar year. The first payment will be made after validation of the winning ticket.

(3) Your prize becomes payable on the first business day following the drawing in which the winning numbers were drawn. If both payment methods are allowed and you select the annual payment, your first payment after ticket validation will be based on the number of weeks remaining in the calendar year in which you claim the prize. The number of weeks will be based on the first business day after the drawing in which the winning numbers were drawn. For example, if the drawing is on a Wednesday, and there are 17 Thursdays left in the calendar year (including the first business day after the drawing), you will be entitled to \$17,000 for the payment in the calendar year in which you claim your prize. Annual payments of \$52,000 will be paid in January of each qualifying year.

(4) If both payment methods are allowed and you select the annual payment, you are entitled to the \$52,000 payment if you live until January 1, even if you do not live until the end of the calendar year. If you select the weekly payment and live until January 1, but you do not live the entire calen-

dar year, your estate will be entitled to receive your weekly payments until the end of the calendar year.

(5) If both payment methods are allowed and you select the weekly payment, you must furnish the lottery with a bank account number for electronic funds transfer (EFT) of your weekly payments, within 30 days of claiming your prize. Failure to provide a bank account number may result in paying your prize in one annual payment. You may choose to change your payment method to an annual payment by so notifying the lottery, which will calculate within 45 days the remainder due for the calendar year. Persons selecting an annual payment may not change their selection to weekly payments.

(6) If both payment methods are allowed and you select the weekly payment, your first payment will be based on the number of weekly payments which have accrued since the first business day after the drawing in which your winning numbers were selected. Thereafter, your payments will be \$1,000 per week.

(7) If only one payment method is allowed by the director, then the grand prize will be paid as one annual payment as set forth above.

(8) The director has the discretion to revise the payment method or methods or select one payment method if it is in the best interests of the lottery, so long as each winner of the "Lifetime Cash" type prize receives a total of \$52,000 for each calendar year after the year in which he/she claims the prize.

(9) If you are under eighteen at the time of claiming the grand prize, weekly or annual payments will begin on your eighteenth birthday. For purposes of calculating your initial payment, the day before your eighteenth birthday will be treated as the date of the drawing of the winning numbers. You must notify the lottery where your payments should be sent and whether you choose weekly or annual payments, at least 30 days preceding your eighteenth birthday.

(10) "Lifetime Cash" winners are responsible to inform the lottery of any address or bank account changes affecting receipt of payments, at least 30 days preceding the address or account change.

(11) If a winner dies before payment of \$250,000 under this section, the winner's successor-in-interest will be entitled to receive a lump sum payment in the amount necessary to bring the amount paid as a prize under this section up to a total of \$250,000. Any successor-in-interest must provide the lottery with the necessary documentation and a court order directing payment of the final amount to the successor or successors entitled to payment. The determination of the sufficiency of the documentation shall lie within the discretion of the director of the lottery. Payment to the successor or successors shall be governed by all applicable laws, including WAC 315-06-120, 315-06-123, and 315-06-130.

(12) The winner's successor-in-interest must notify the lottery of the death of the winner. If the lottery makes a payment after the winner's death, the lottery shall require return of the payment, except, at the director's discretion, the payment may be deducted from any lump sum payment due to the winner's estate.

NEW SECTION

WAC 315-36-120 How are prizes, other than the "Lifetime Cash" type grand prize, paid? Every Lucky for Life prize other than the "Lifetime Cash" type grand prize will be paid in a single payment.

NEW SECTION

WAC 315-36-130 What happens to unclaimed Lucky for Life prizes? When a player who holds a winning ticket does not claim his or her prize within one hundred eighty days of the drawing in which the prize was won, that prize is retained in the state lottery fund for further use as prizes, as provided for in RCW 67.70.190.

NEW SECTION

WAC 315-36-140 Definitions for Lucky for Life. (1) Number: Any play number from "00" through "99" inclusive.

(2) Set: One selection of four numbers, which are printed horizontally on the ticket. Each set is preceded by a letter of the alphabet.

(3) Lifetime cash: The grand prize of \$1,000 per week for life, for a maximum of \$52,000 per year.

(4) Play slip: A mark-sense game card used by players to select one set of four numbers for the "Lifetime Cash" grand prize.

(5) Lucky for Life ticket: A computer-generated receipt showing payment for one play in a Lucky for Life game. Tickets shall be issued by an on-line terminal at locations licensed by the lottery and shall list the twenty-one sets of four numbers each that belong to the ticket holder.

(6) Quick pick or quick play: A method for choosing a set of numbers by use of the random number generator within the on-line computer terminal.

(7) Play: Twenty-one sets of four numbers.

NEW SECTION

WAC 315-36-150 Suspension or termination of Lucky for Life. At the discretion of the director, Lucky for Life may be suspended or terminated at any time, to be effective prior to the beginning of sales for any future drawing. The director may suspend or terminate sales only where no sales have been made for the drawing.

WSR 98-15-129

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 98-04—Filed July 21, 1998, 4:03 p.m.]

Date of Adoption: July 21, 1998.

Purpose: The purpose of this action is to update the state air quality regulations to incorporate federal requirements by reference and to update associated references to keep the rule useful and comprehensive.

Citation of Existing Rules Affected by this Order: Amending WAC 173-400-060, 173-400-070, 173-400-075, 173-400-105(4), 173-400-110 (2)(d), and 173-460-060.

Statutory Authority for Adoption: RCW 70.94.860, 70.94.510, and 70.94.331.

Adopted under notice filed as WSR 98-10-034 on April 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.

July 17, 1998

Tom Fitzsimmons

Director

AMENDATORY SECTION (Amending Order 90-06, filed 2/19/91, effective 3/22/91)

WAC 173-400-060 Emission standards for general process units. General process units are required to meet all applicable provisions of WAC 173-400-040 and, no person shall cause or permit the emission of particulate material from any general process operation in excess of 0.23 grams per dry cubic meter at standard conditions (0.1 grain/dscf) of exhaust gas. EPA test methods from 40 CFR (~~Appendix A which are adopted by reference~~) parts 51, 60, 61, and 63 and any other approved test procedures which are contained in ecology's "Source Test Manual - Procedures For Compliance Testing" as of July 12, 1990, will be used to determine compliance.

AMENDATORY SECTION (Amending Order 94-35, filed 9/13/96, effective 10/14/96)

WAC 173-400-070 Emission standards for certain source categories. Ecology finds that the reasonable regulation of sources within certain categories requires separate standards applicable to such categories. The standards set forth in this section shall be the maximum allowable standards for emissions units within the categories listed. Except as specifically provided in this section, such emissions units shall not be required to meet the provisions of WAC 173-400-040, 173-400-050 and 173-400-060.

(1) Wigwam burners.

(a) All wigwam burners shall meet all provisions of WAC 173-400-040 (2), (3), (4), (5), (6), and (7).

(b) All wigwam burners shall use RACT. All emissions units shall be operated and maintained to minimize emissions. These requirements may include a controlled tangential vent overfire air system, an adequate underfire system, elimination of all unnecessary openings, a controlled feed and other modifications determined necessary by ecology or the authority.

(c) It shall be unlawful to install or increase the existing use of any burner that does not meet all requirements for new sources including those requirements specified in WAC 173-400-040 and 173-400-050, except operating hours.

(d) Ecology may establish additional requirements for wigwam burners located in sensitive areas as defined by chapter 173-440 WAC. These requirements may include but shall not be limited to:

(i) A requirement to meet all provisions of WAC 173-400-040 and 173-400-050. Wigwam burners will be considered to be in compliance if they meet the requirements contained in WAC 173-400-040(1). An exception is made for a startup period not to exceed thirty minutes in any eight consecutive hours.

(ii) A requirement to apply BACT.

(iii) A requirement to reduce or eliminate emissions if ecology establishes that such emissions unreasonably interfere with the use and enjoyment of the property of others or are a cause of violation of ambient air standards.

(2) Hog fuel boilers.

(a) Hog fuel boilers shall meet all provisions of WAC 173-400-040 and 173-400-050(1), except that emissions may exceed twenty percent opacity for up to fifteen consecutive minutes once in any eight hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of these units. This practice is to be scheduled for the same specific times each day and ecology or the authority shall be notified of the schedule or any changes.

(b) All hog fuel boilers shall utilize RACT and shall be operated and maintained to minimize emissions.

(3) Orchard heating.

(a) Burning of rubber materials, asphaltic products, crankcase oil or petroleum wastes, plastic, or garbage is prohibited.

(b) It is unlawful to burn any material or operate any orchard-heating device that causes a visible emission exceeding twenty percent opacity, except during the first thirty minutes after such device or material is ignited.

(4) Grain elevators.

Any grain elevator which is primarily classified as a materials handling operation shall meet all the provisions of WAC 173-400-040 (2), (3), (4), and (5).

(5) Catalytic cracking units.

(a) All existing catalytic cracking units shall meet all provisions of WAC 173-400-040 (2), (3), (4), (5), (6), and (7) and:

(i) No person shall cause or permit the emission for more than three minutes, in any one hour, of an air contaminant from any catalytic cracking unit which at the emission point, or within a reasonable distance of the emission point, exceeds forty percent opacity.

(ii) No person shall cause or permit the emission of particulate material in excess of 0.46 grams per dry cubic meter at standard conditions (0.20 grains/dscf) of exhaust gas.

(b) All new catalytic cracking units shall meet all provisions of WAC 173-400-115.

(6) Other wood waste burners.

(a) Wood waste burners not specifically provided for in this section shall meet all provisions of WAC 173-400-040.

(b) Such wood waste burners shall utilize RACT and shall be operated and maintained to minimize emissions.

(7) Sulfuric acid plants.

No person shall cause to be discharged into the atmosphere from a sulfuric acid plant, any gases which contain acid mist, expressed as H₂SO₄, in excess of 0.15 pounds per ton of acid produced. Sulfuric acid production shall be expressed as one hundred percent H₂SO₄.

(8) Sewage sludge incinerators. ~~((The))~~ Standards for the incineration of sewage sludge ~~((, as listed))~~ found in 40 CFR part 503 subparts A ~~((--))~~ (General Provisions) and ~~((subpart))~~ E ~~((--))~~ (Incineration) in effect on July 1, 1997, are ~~((hereby))~~ adopted by reference ~~((as proposed on (add proposal date)))~~.

AMENDATORY SECTION (Amending Order 94-35, filed 9/13/96, effective 10/14/96)

WAC 173-400-075 Emission standards for sources emitting hazardous air pollutants. (1) ~~((The emission standards for hazardous air pollutants promulgated by the United States Environmental Protection Agency (EPA) as in effect on date of adoption, as contained in Title 40, Code of Federal Regulations, Part 61))~~ National emission standards for hazardous air pollutants (NESHAPs). NESHAPs and Appendices found in 40 CFR part 61 in effect on April 1, 1998, are adopted by reference. The term "administrator" in 40 CFR part 61 ((shall mean both the administrator of EPA and)) includes the director of ecology.

(2) Ecology or the authority may conduct source tests and require access to records, books, files, and other information specific to the control, recovery, or release of those pollutants regulated under 40 CFR parts 61 and 63 in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities.

(3) Source testing, monitoring, and analytical methods for sources of hazardous air pollutants ~~((such as: Asbestos, benzene from fugitive emission sources, beryllium, mercury, or vinyl chloride))~~ shall conform with the requirements of ~~((Title 40, Code of Federal Regulations,))~~ 40 CFR parts 61 ((as promulgated prior to January 1, 1993)) and 63.

(4) This section shall not apply to any source operating pursuant to a waiver granted by EPA or an exemption granted by the president of the United States during the effective life of such waiver or exemption.

(5) ~~((National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, as proposed on March 1, 1996, hereby set standards of the maximum achievable control technology (MACT) standards affecting facilities for the following described subparts of Title 40 CFR, Part 63--))~~ Maximum achievable control technology (MACT) standards. MACT standards are officially known as

national emission standards for hazardous air pollutants for source categories. They are found in 40 CFR part 63.

(a) Adopt by reference. This list of federal MACT standards and Appendices in 40 CFR part 63 in effect on April 1, 1998, is adopted by reference. The term "administrator" in 40 CFR part 63 includes the director of ecology.

Subpart A	((NESHAPs for Source Categories:)) General Provisions
Subpart B	<u>Requirements for Control Technology Determinations for Major Sources According to Section 112(g) and 112(j) of the federal Clean Air Act</u>
Subpart D	Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants
Subpart F	NESHAPs for the Synthetic Organic Chemical Manufacturing Industry (a/k/a HON)
Subpart G	NESHAPs for the Synthetic Organic Chemical Manufacturing Industry: Process Vents, Storage Vessels, Transfer Operations, and Wastewater
Subpart H	NESHAPs for the Synthetic Organic Chemical Manufacturing Industry: Equipment Leaks
Subpart I	<u>NESHAPs for Processes Subject to the Negotiated Regulation for Equipment Leaks</u>
Subpart L	NESHAPs for ((Source Categories and)) Coke Oven Batteries: Charging, topside and door leaks
Subpart N	NESHAPs for Chromium Electroplating and Anodizing
Subpart O	NESHAPs for Commercial ((Ethyl-)) Ethylene Oxide ((Sterilizers))
Subpart Q	NESHAPs for Industrial Process Cooling Towers
Subpart R	NESHAPs ((Source Categories:)) for Gasoline Distribution/Marketing (stage 1)
Subpart T	NESHAPs for Halogenated Solvent Cleaning Machines
Subpart U	<u>NESHAPs for Group I Polymers and Resins</u>
Subpart W	NESHAPs for Epoxy Resins Production and Non-Nylon Polyamides Production
Subpart X	NESHAPs for the Secondary Lead Smelters
Subpart CC	NESHAPs for the Petroleum Refinery Industry

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- Subpart DD NESHAPs from Off-site Waste and Recovery Treatment Operation
- Subpart EE NESHAPs for Magnetic Tape Manufacturing Operations
- Subpart GG NESHAPs for the Aerospace Manufacturing and Rework Facilities
- Subpart II NESHAPs for Shipbuilding and Repair (surface coating)
- Subpart JJ NESHAPs for Wood Furniture Manufacturing Operations
- Subpart KK NESHAPs for Printing and Publishing Industry
- Subpart OO NESHAPs for Tanks-level 1
- Subpart PP NESHAPs for Containers
- Subpart QQ NESHAPs for Surface Impoundments
- Subpart RR NESHAPs for Individual Drain Systems
- Subpart VV NESHAPs for Oil-Water Separators and Organic Water Separators
- Appendix A Test Methods
- Appendix B Sources Defined for Early Reduction Provisions
- Appendix C Determination of the Fraction Biodegraded in a Biological Treatment Unit
- Appendix D Alternative Validation procedure for EPA Waste and Wastewater Methods

(b) Exceptions. The following subparts of 40 CFR part 63 are not adopted by reference:

- Subpart C List of Hazardous Air Pollutants, Petition Process, Lesser Quantity Designations, source Category List
- Subpart E Approval of State Programs and Delegation of Federal Authorities
- Subpart M National Perchloroethylene Emission Standards for Dry Cleaning Facilities
- Subpart S National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry
- Subpart Y National Emission Standards for Hazardous Air Pollutants for Marine Tank Vessel Loading Operations
- Subpart LL National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants

(6) Emission Standards for Perchloroethylene Dry Cleaners.

(a) Policy and purpose. It is not the intent of this section to place any additional burden on the generator beyond the federal MACT. Instead, the purpose of this section is to provide the reader with a clearer and more concise regulation.

(b) Applicability. This section applies to all dry cleaning systems using perchloroethylene (PCE). The standards that apply to this section fall into the following source categories as presented in Table 1.

TABLE 1. Perchloroethylene Dry Cleaner NESHAP Source Categories

Applicability	Small Area Sources	Large Area Sources	Major Sources
Dry cleaning Facilities with	Consuming less than:	Consuming between:	Consuming more than:
(1) Only Dry-to-Dry Machines	140 gallons PCE/yr	140-2,100 gallons PCE/yr	2,100 gallons PCE/yr
(2) Only Transfer Machines	200 gallons PCE/yr	200-1,800 gallons PCE/yr	1,800 gallons PCE/yr
(3) Both Dry-to-Dry and Transfer Machines	140 gallons PCE/yr	140-1,800 gallons PCE/yr	1,800 gallons PCE/yr

(c) General requirements. It shall be unlawful for any person to cause or allow the operation of a large area or major source perchloroethylene dry cleaning system unless all the air-perchloroethylene gas-vapor stream is vented through a refrigerated condenser. A major source dry cleaning system installed after September 21, 1993, must utilize a refrigerated condenser followed by a small carbon adsorber. It shall be unlawful for any person to cause or allow the operation of a small area source dry cleaning system installed after September 21, 1993, unless all the air-perchloroethylene dry cleaning system is vented through a refrigerated condenser.

(d) General operation and maintenance requirements. It shall be unlawful for any person to cause or allow the operation of any perchloroethylene dry cleaning system unless all of the following conditions are met:

(i) All perchloroethylene dry cleaners who generate seventy-five thousand dollars per year in revenue must conduct a visual inspection of the dry cleaning system at least once a week for perceptible leaks. Perceptible leaks shall be repaired within twenty-four hours of detection unless repair parts cannot be ordered within that period of time. If parts must be ordered to repair a leak, the parts shall be ordered within two working days of detecting the leak and repair parts shall be installed within five working days after receipt;

(ii) Drain cartridge filters in their housing or other sealed container for at least twenty-four hours before discarding the cartridges;

(iii) Close the door of each dry cleaning machine except when transferring articles to or from the machine;

(iv) Store all perchloroethylene, and wastes containing perchloroethylene, in a closed container; and

(v) Operate and maintain the dry cleaning system according to the manufacturer's specification and recommendations.

(e) Requirements for refrigerated condensers. It shall be unlawful for any person to cause or allow the operation of

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any perchloroethylene dry cleaning system using a refrigerated condenser unless all of the following conditions are met:

(i) The air temperature at the outlet of the refrigerated condenser installed on a dry-to-dry machine, dryer or reclaimer must be less than or equal to 45°F (7°C) during the cool-down period. Compliance shall be determined by monitoring the temperature on a continuous basis using a permanently installed temperature sensor that is accurate to within 2°F (1°C). The temperature shall be logged weekly;

(ii) The difference between the air temperature at the inlet and outlet of a refrigerated condenser installed on a washer must be greater than or equal to 20°F (11°C). Compliance shall be determined by monitoring the temperature on a continuous basis using a permanently installed temperature sensor that is accurate to within 2°F (1°C). The temperature shall be logged weekly. If the dry cleaning system was constructed before December 9, 1991, temperature sensors shall be installed by September 23, 1996;

(iii) The refrigerated condenser shall be operated with a diverter valve that prevents air drawn into the dry cleaning machine from passing through the refrigerated condenser when the door of the machines is open; and

(iv) The refrigerated condenser shall not vent the air-perchloroethylene gas-vapor stream while the dry cleaning machine drum is rotating or, if installed on a washer, until the washer door is opened.

(f) Requirements for carbon adsorbers. It shall be unlawful for any person to cause or allow the operation of any perchloroethylene dry cleaning system using a carbon adsorber unless all of the following conditions have been met:

(i) The concentration of perchloroethylene at the exhaust of the carbon adsorber shall not exceed 100 ppm while the dry cleaning machine is venting to the carbon adsorber at the end of the last dry cleaning cycle prior to desorption of the carbon adsorber; and

(ii) Compliance shall be determined by weekly measurements of the concentration of perchloroethylene at the outlet of the carbon adsorber using a colorimetric detector tube that is accurate to within 25 ppm. If the dry cleaning system was constructed before December 9, 1991, monitoring shall commence by September 23, 1996.

(g) Recordkeeping. Each dry cleaning facility shall have on-site the design specifications and operating manuals for all perchloroethylene dry cleaning equipment and process vent control devices, as well as an operations and maintenance plan that includes the following:

(i) A record of dates and results of all monitoring, inspections, and repair of the dry cleaning system; and

(ii) A record of the volume of perchloroethylene purchased each month including receipts of perchloroethylene purchases and a calculation of the amount of perchloroethylene purchased over the previous twelve months.

(h) A record shall be kept of any pollution prevention activities that have been accomplished.

(i) Major source requirements. If the dry cleaning system is located at a facility that emits 10 tons or more of perchloroethylene annually, the facility must meet the additional requirements set forth in 40 CFR Part 63, Subpart M.

AMENDATORY SECTION (Amending Order 94-35, filed 9/13/96, effective 10/14/96)

WAC 173-400-105 Records, monitoring, and reporting. The owner or operator of a source shall upon notification by the director of ecology, maintain records on the type and quantity of emissions from the source and other information deemed necessary to determine whether the source is in compliance with applicable emission limitations and control measures.

(1) Emission inventory. The owner(s) or operator(s) of any air contaminant source shall submit an inventory of emissions from the source each year. The inventory may include stack and fugitive emissions of particulate matter, PM₁₀, sulfur dioxide, carbon monoxide, total reduced sulfur compounds (TRS), fluorides, lead, VOCs, and other contaminants, and shall be submitted (when required) no later than one hundred five days after the end of the calendar year. The owner(s) or operator(s) shall maintain records of information necessary to substantiate any reported emissions, consistent with the averaging times for the applicable standards.

(2) Monitoring. Ecology shall conduct a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants.

As a part of this program, the director of ecology or an authorized representative may require any source under the jurisdiction of ecology to conduct stack and/or ambient air monitoring and to report the results to ecology.

(3) Investigation of conditions. Upon presentation of appropriate credentials, for the purpose of investigating conditions specific to the control, recovery, or release of air contaminants into the atmosphere, personnel from ecology or an authority shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing one or two families.

(4) Source testing. To demonstrate compliance, ecology or the authority may conduct or require that a test be conducted of the source using approved EPA methods from 40 CFR parts 51, 60 (~~Appendix A which are adopted by reference~~), 61 and 63, or approved procedures contained in "Source Test Manual - Procedures for Compliance Testing," state of Washington, department of ecology, as of July 12, 1990, on file at ecology. The operator of a source may be required to provide the necessary platform and sampling ports for ecology personnel or others to perform a test of an emissions unit. Ecology shall be allowed to obtain a sample from any emissions unit. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

(5) Continuous monitoring and recording. Owners and operators of the following categories of sources shall install, calibrate, maintain and operate equipment for continuously monitoring and recording those emissions specified.

(a) Fossil fuel-fired steam generators.

(i) Opacity, except where:

(A) Steam generator capacity is less than two hundred fifty million BTU per hour heat input; or

(B) Only gaseous fuel is burned.

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(ii) Sulfur dioxide, except where steam generator capacity is less than two hundred fifty million BTU per hour heat input or if sulfur dioxide control equipment is not required.

(iii) Percent oxygen or carbon dioxide where such measurements are necessary for the conversion of sulfur dioxide continuous emission monitoring data.

(iv) General exception. These requirements do not apply to a fossil fuel-fired steam generator with an annual average capacity factor of less than thirty percent, as reported to the Federal Power Commission for calendar year 1974, or as otherwise demonstrated to ecology or the authority by the owner(s) or operator(s).

(b) Sulfuric acid plants.

Sulfur dioxide where production capacity is more than three hundred tons per day, expressed as one hundred percent acid, except for those facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

(c) Fluid bed catalytic cracking units catalyst regenerators at petroleum refineries.

Opacity where fresh feed capacity is more than twenty thousand barrels per day.

(d) Wood residue fuel-fired steam generators.

(i) Opacity, except where steam generator capacity is less than one hundred million BTU per hour heat input.

(ii) Continuous monitoring equipment. The requirements of (e) of this subsection do not apply to wood residue fuel-fired steam generators, but continuous monitoring equipment required by (d) of this subsection shall be subject to approval by ecology.

(e) Owners and operators of those sources required to install continuous monitoring equipment under this chapter shall demonstrate to ecology or the authority, compliance with the equipment and performance specifications and observe the reporting requirements contained in 40 CFR Part 51, Appendix P, Sections 3, 4 and 5, promulgated October 6, 1975, and amended November 7, 1986, which is adopted by reference.

(f) Special considerations. If for reason of physical plant limitations or extreme economic situations, ecology determines that continuous monitoring is not a reasonable requirement, alternative monitoring and reporting procedures will be established on an individual basis. These will generally take the form of stack tests conducted at a frequency sufficient to establish the emission levels over time and to monitor deviations in these levels.

(g) Exemptions. This subsection (5) does not apply to any source which is:

(i) Subject to a new source performance standard. These sources will be governed by WAC 173-400-115.

(ii) Not subject to an applicable emission standard.

(h) Monitoring system malfunctions. A source may be temporarily exempted from the monitoring and reporting requirements of this chapter during periods of monitoring system malfunctions provided that the source owner(s) or operator(s) shows to the satisfaction of ecology or the authority that the malfunction was unavoidable and is being repaired as expeditiously as practicable.

(6) Change in raw materials or fuels for sources not subject to requirements of the operating permit program. Any change or series of changes in raw material or fuel which will result in a cumulative increase in emissions of sulfur dioxide of forty tons per year or more over that stated in the initial inventory required by subsection (1) of this section shall require the submittal of sufficient information to ecology or the authority to determine the effect of the increase upon ambient concentrations of sulfur dioxide. Ecology or the authority may issue regulatory orders requiring controls to reduce the effect of such increases. Cumulative changes in raw material or fuel of less than 0.5 percent increase in average annual sulfur content over the initial inventory shall not require such notice.

(7) No person shall make any false materials statement, representation or certification in any form, notice or report required under chapter 70.94 or 70.120 RCW, or any ordinance, resolution, regulation, permit or order in force pursuant thereto.

(8) No person shall render inaccurate any monitoring device or method required under chapter 70.94 or 70.120 RCW, or any ordinance, resolution, regulation, permit, or order in force pursuant thereto.

AMENDATORY SECTION (Amending Order 96-01, filed 12/23/97, effective 1/23/98)

WAC 173-400-110 New source review (NSR). (1) **Applicability.** This section, WAC 173-400-112 and 173-400-113 apply state-wide except where an authority has adopted and is implementing its own new source review regulation and those regulations are incorporated into the state implementation plan.

(2) **Projects subject to NSR.** A notice of construction application must be filed by the owner or operator and an order of approval issued by ecology or an authority prior to the establishment of any new source, except for those sources exempt under subsection (4) or (5) of this section.

For purposes of this section "establishment" shall mean to begin actual construction, as that term is defined in WAC 173-400-030(9), and "new source" shall include any modification to an existing stationary source, as defined in WAC 173-400-030(44). Notwithstanding any other subsection of this section, a notice of construction application must be filed and an order of approval issued by ecology or an authority prior to establishment of any of the following new sources:

(a) Any project that qualifies as construction, reconstruction or modification of an affected facility, within the meaning of 40 CFR Part 60 (New Source Performance Standards) (except Part AAA, Wood stoves);

(b) Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (except for asbestos demolition and renovation projects subject to 40 CFR 61.145);

(c) Any project that qualifies as a new source within the meaning of 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants);

(d) Any project that qualifies as a major stationary source, as defined in WAC 173-400-030(41), or a major

modification, as defined in WAC ((173-400-040)) 173-400-030(40);

(e) Any project that requires an increase in a plant-wide cap or unit specific emission limit.

(3) New source review of a modification shall be limited to the emission unit or units proposed to be added to an existing source or modified and the air contaminants whose emissions would increase as a result of the modification.

(4) Emission unit and activity exemptions.

Except as provided in subsection (2) of this section, establishment of a new emission unit that falls within one of the categories listed below is exempt from new source review. Modification of any emission unit listed below is exempt from new source review, provided that the modified unit continues to fall within one of the listed categories. The installation or modification of a unit exempt under this subsection does not require the filing of a Notice of Construction Application.

(a) Maintenance/construction:

- (i) Cleaning and sweeping of streets and paved surfaces;
- (ii) Concrete application, and installation;
- (iii) Dredging wet spoils handling and placement;
- (iv) Paving application and maintenance, excluding asphalt plants;

(v) Plant maintenance and upkeep activities (grounds keeping, general repairs, routine house keeping, routine plant painting, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.);

(vi) Plumbing installation, plumbing protective coating application and maintenance activities;

(vii) Roofing application;

(viii) Insulation application and maintenance, excluding products for resale;

(ix) Janitorial services and consumer use of janitorial products.

(b) Storage tanks:

Note: It can be difficult to determine requirements for storage tanks. Ecology strongly recommends that an owner or operator contact ecology or the authority to determine the exemption status of storage tanks prior to their installation.

(i) Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils;

(ii) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation;

(iii) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions;

(iv) Process and white water storage tanks;

(v) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity (35 cft);

(vi) Operation, loading and unloading of storage tanks, ≤ 1100 gallon capacity, with lids or other appropriate closure, not for use with materials containing toxic air pollutants, as defined in chapter 173-460 WAC, max. VP 550 mm Hg @21°C;

(vii) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons;

(viii) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids.

(c) A project with combined aggregate heat inputs of combustion units, ≤ all of the following:

(i) ≤ 500,000 Btu/hr using coal with ≤ 0.5% sulfur or other fuels with ≤ 0.5% sulfur;

(ii) ≤ 500,000 Btu/hr used oil, per the requirements of RCW 70.94.610;

(iii) ≤ 400,000 Btu/hr wood waste or paper;

(iv) < 1,000,000 Btu/hr using kerosene, #1, or #2 fuel oil and with ≤ 0.05% sulfur;

(v) ≤ 4,000,000 Btu/hr using natural gas, propane, or LPG.

(d) Material handling:

(i) Continuous digester chip feeders;

(ii) Grain elevators not licensed as warehouses or dealers by either the Washington state department of agriculture or the U.S. Department of Agriculture;

(iii) Storage and handling of water based lubricants for metal working where organic content of the lubricant is ≤ 10%;

(iv) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallon, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mm Hg @21°C, with lids or other appropriate closure.

(e) Water treatment:

(i) Septic sewer systems, not including active wastewater treatment facilities;

(ii) NPDES permitted ponds and lagoons used solely for the purpose of settling suspended solids and skimming of oil and grease;

(iii) De-aeration (oxygen scavenging) of water where toxic air pollutants as defined in chapter 173-460 WAC are not emitted;

(iv) Process water filtration system and demineralizer vents;

(v) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems;

(vi) Demineralizer tanks;

(vii) Alum tanks;

(viii) Clean water condensate tanks.

(f) Environmental chambers and laboratory equipment:

(i) Environmental chambers and humidity chambers not using toxic air pollutant gases, as regulated under chapter 173-460 WAC;

(ii) Gas cabinets using only gases that are not toxic air pollutants regulated under chapter 173-460 WAC;

(iii) Installation or modification of a single laboratory fume hood;

(iv) Laboratory calibration and maintenance equipment.

(g) Monitoring/quality assurance/testing:

(i) Equipment and instrumentation used for quality control/assurance or inspection purpose;

(ii) Hydraulic and hydrostatic testing equipment;

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- (iii) Sample gathering, preparation and management;
- (iv) Vents from continuous emission monitors and other analyzers.
- (h) Miscellaneous:
 - (i) Single-family residences and duplexes;
 - (ii) Plastic pipe welding;
 - (iii) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting;
 - (iv) Comfort air conditioning;
 - (v) Flares used to indicate danger to the public;
 - (vi) Natural and forced air vents and stacks for bathroom/toilet activities;
 - (vii) Personal care activities;
 - (viii) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires;
 - (ix) Tobacco smoking rooms and areas;
 - (x) Noncommercial smokehouses;
 - (xi) Blacksmith forges for single forges;
 - (xii) Vehicle maintenance activities, not including vehicle surface coating;
 - (xiii) Vehicle or equipment washing (see (c) of this subsection for threshold for boilers);
 - (xiv) Wax application;
 - (xv) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment;
 - (xvi) Ozone generators and ozonation equipment;
 - (xvii) Solar simulators;
 - (xviii) Ultraviolet curing processes, to the extent that toxic air pollutant gases as defined in chapter 173-460 WAC are not emitted;
 - (xix) Electrical circuit breakers, transformers, or switching equipment installation or operation;
 - (xx) Pulse capacitors;
 - (xxi) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives;
 - (xxii) Fire suppression equipment;
 - (xxiii) Recovery boiler blow-down tank;
 - (xxiv) Screw press vents;
 - (xxv) Drop hammers or hydraulic presses for forging or metal working;
 - (xxvi) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight;
 - (xxvii) Kraft lime mud storage tanks and process vessels;
 - (xxviii) Lime grits washers, filters and handling;
 - (xxix) Lime mud filtrate tanks;
 - (xxx) Lime mud water;
 - (xxxii) Stock cleaning and pressurized pulp washing down process of the brown stock washer;
 - (xxxiii) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities;
 - (xxxiii) Nontoxic air pollutant, as defined in chapter 173-460 WAC, solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm Hg @21°C;
 - (xxxiv) Surface coating, aqueous solution or suspension containing ≤ 1% (by weight) VOCs, and/or toxic air pollutants as defined in chapter 173-460 WAC;

(xxxv) Cleaning and stripping activities and equipment using solutions having ≤ 1% VOCs (by weight); on metallic substances, acid solutions are not exempt;

(xxxvi) Dip coating operations, using materials less than 1% VOCs (by weight) and/or toxic air pollutants as defined in chapter 173-460 WAC.

(5) Exemptions based on emissions thresholds.

(a) Except as provided in subsection (2) of this section and in this subsection:

(i) A new emissions unit that has a potential to emit below each of the threshold levels listed in the table contained in (d) of this subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.

(ii) A modification to an existing emissions unit that increases the unit's actual emissions by less than each of the threshold levels listed in the table contained in (d) of this subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.

(b) The owner or operator seeking to exempt a project from new source review under this section shall notify, and upon request, file a brief project summary with ecology or the authority prior to beginning actual construction on the project. If ecology or the authority determine that the project will have more than a de Minimus impact on air quality, ecology or the authority may require the filing of a notice of construction application. Ecology or the authority may require the owner or operator to demonstrate that the emissions increase from the new emissions unit is smaller than all of the thresholds listed below.

(c) The owner/operator may begin actual construction on the project thirty-one days after ecology or the authority receive the summary, unless ecology or the authority notifies the owner/operator within thirty days that the proposed new source requires a notice of construction application.

(d) Exemption threshold table:

POLLUTANT	THRESHOLD LEVEL (TONS PER YEAR)
(a) Total Suspended Particulates	1.25
(b) PM10	0.75
(c) Sulfur Oxides	2.0
(d) Nitrogen Oxides	2.0
(e) Volatile Organic Compounds, total	2.0
(f) Carbon Monoxide	5.0
(g) Lead	0.005
(h) Ozone Depleting Substances in Aggregate (the sum of Class I and/or Class II substances as defined in FCAA Title VI and 40 CFR Part 82)	1.0
(i) Toxic Air Pollutants	As specified in chapter 173-460 WAC.

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(6) **Completeness determination.** Within thirty days of receipt of a notice of construction application, ecology or the authority shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary, based upon review of information already supplied, to complete the application. For a project subject to PSD review under WAC 173-400-141 a completeness determination includes a determination that the application provides all information required to conduct PSD review.

(7) **Final determination.**

(a) Within sixty days of receipt of a complete application, ecology or the authority shall either issue a final decision on the application or, for those projects subject to public notice, initiate notice and comment procedures under WAC 173-400-171 on a proposed decision, followed as promptly as possible by a final decision.

(b) A person seeking approval to construct or modify a source that requires an operating permit may elect to integrate review of the operating permit application or amendment required under RCW 70.94.161 and the notice of construction application required by this section. A notice of construction application designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines.

(c) Every final determination on a notice of construction application shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of ecology or the authority.

(d) If the new source is a major stationary source or the change is a major modification, ecology or the authority shall submit any control technology determination included in a final order of approval to the RACT/BACT/LAER clearinghouse maintained by EPA.

(8) **Appeals.** An order of approval, any conditions contained in an order of approval, or the denial of a notice of construction application may be appealed to the pollution control hearings board as provided in chapter 43.21B RCW. Ecology or the authority shall promptly mail copies of each order approving or denying a notice of construction application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the Pollution Control Hearings Board and, where applicable, to the EPA Environmental Appeals Board.

(9) **Portable sources.** For portable sources which locate temporarily at particular sites, the owner(s) or operator(s) shall be allowed to operate at the temporary location without filing a notice of construction application, providing that the owner(s) or operator(s) notifies ecology or the authority of intent to operate at the new location at least thirty days prior to starting the operation, and supplies sufficient information to enable ecology or the authority to determine that the operation will comply with the emission standards for a new source, and will not cause a violation of applicable ambient air quality standards and, if in a nonattainment area, will not interfere with scheduled attainment of ambient standards. The permission to operate shall be for a limited period of time (one year or less) and ecology or the authority may set spe-

cific conditions for operation during that period. A temporary source shall be required to comply with all applicable emission standards.

(10) **Construction time limitations.** Approval to construct or modify a stationary source shall become invalid if construction is not commenced within eighteen months after receipt of such approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. Ecology or the authority may extend the eighteen-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must commence construction within eighteen months of the projected and approved commencement date.

(11) **Change of conditions.**

(a) The owner or operator may request, at any time, a change in conditions of an approval order and ecology or the authority may approve such a request provided ecology or the authority finds that:

(i) The change in conditions will not cause the air contaminant source to exceed an emissions standard;

(ii) No ambient air quality standard or PSD increment will be exceeded as a result of the change;

(iii) The change will not adversely impact the ability of ecology or the authority to determine compliance with an emissions standard; and

(iv) The revised order will continue to require BACT, as defined at the time of the original approval, for each new source approved by the order except where the Federal Clean Air Act requires LAER.

(b) Actions taken under this subsection are subject to the public involvement provisions of WAC 173-400-171.

(c) This rule does not prescribe the exact form such requests must take. However, if the request is filed as a notice of construction application, that application shall be acted upon using the timelines found in subsections (6) and (7) of this section. The fee schedule found in WAC 173-400-116 shall also apply to requests filed as notice of construction applications.

AMENDATORY SECTION (Amending Order 97-38, filed 2/2/98, effective 3/5/98)

WAC 173-460-060 Control technology requirements. Except as provided for in WAC 173-460-040, a person shall not establish, operate, or cause to be established or operated any new toxic air pollutant source which is likely to increase TAP emissions without installing and operating T-BACT. Satisfaction of the performance requirements listed below fulfill the T-BACT requirement for those particular sources. Local air pollution authorities may develop and require performance requirements in lieu of T-BACT provided that ecology approves the performance requirements as equivalent to T-BACT.

(1) Perchloroethylene dry cleaners. The requirements for perchloroethylene dry cleaners found in WAC 173-400-075 are considered T-BACT.

(2) Petroleum solvent dry cleaning systems. A petroleum solvent dry cleaning system shall include the following:

(a) All cleaned articles are dried in a solvent recovery dryer or the entire dryer exhaust is vented through a properly functioning control device which will reduce emissions to no more than 3.5 kg of VOC per 100 kg dry weight of cleaned articles; and

(b) All cartridge filtration systems are drained in their sealed housing or other enclosed container before discarding the cartridges; and

(c) All leaking components shall be repaired immediately.

~~((2))~~ (3) Chromic acid plating and anodizing. The facility-wide uncontrolled hexavalent chromium emissions from plating or anodizing tanks shall be reduced by at least ninety-five percent using either of the following control techniques:

(a) An antimist additive or other equally effective control method approved by ecology or authority; or

(b) The tank is equipped with:

(i) A capture system which represents good engineering practice and which shall be in place and in operation at all times electrical current is applied to the tank; and

(ii) An emission control system which limits hexavalent chromium emissions to no more than 0.15 milligrams per ampere-hour of electrical charge applied to the tank or uncontrolled emissions shall be reduced by ninety-five percent.

~~((3))~~ (4) Chromic acid plating and anodizing (greater than 1 kilogram). If the facility-wide hexavalent chromium emissions from chromic acid plating and anodizing are greater than 1 kilogram per year after the application of control techniques required by subsection ~~((2))~~ (3) of this section, the facility-wide hexavalent chromium emissions shall be reduced by at least ninety-nine percent using either of the following control techniques:

(a) An antimist additive or other equally effective control method approved by ecology or authority; or

(b) The tank is equipped with:

(i) A capture system which represents good engineering practice and which shall be in place and in operation at all times electrical current is applied to the tank; and

(ii) An emissions control system which limits hexavalent chromium emissions to no more than 0.03 milligrams per ampere-hour of electrical charge applied to the tank or uncontrolled emissions shall be reduced by ninety-nine percent.

~~((4))~~ (5) Solvent metal cleaners.

(a) Any solvent metal cleaner shall include all of the following equipment:

(i) A cover for the solvent tank which shall be closed at all times except when processing work in the degreaser. However, the cover shall be closed to the maximum extent possible when parts are being degreased;

(ii) A facility for draining cleaned parts such that the drained solvent is returned to the solvent tank;

(iii) For cold solvent cleaners, a freeboard ratio greater than or equal to 0.75;

(iv) Vapor degreasers shall have:

(A) A high vapor cutoff thermostat with manual reset; and

(B) For degreasers with spray devices, a vapor-up thermostat which will allow spray operation only after the vapor zone has risen to the design level; and

(C) Either a freeboard ratio greater than or equal to 1.00 or a refrigerated freeboard chiller; and

(v) Conveyorized vapor degreasers shall have:

(A) A drying tunnel or a rotating basket sufficient to prevent cleaned parts from carrying liquid solvent out of the degreaser; and

(B) A high vapor cutoff thermostat with manual reset; and

(C) A vapor-up thermostat which will allow conveyor movement only after the vapor zone has risen to the design vapor level.

(b) The operation of any solvent metal cleaner shall meet the following requirements:

(i) Solvent shall not leak from any portion of the degreasing equipment;

(ii) Solvent, including waste solvent, shall be stored in closed containers and shall be disposed of in such a manner as to prevent its evaporation into the atmosphere;

(iii) For cold cleaners, cleaned parts shall be drained until dripping ceases; and

(iv) Degreasers shall be constructed to allow liquid solvent from cleaned parts to drain into a trough or equivalent device and return to the solvent tank.

(c) For open-top vapor degreasers, solvent drag-out shall be minimized by the following measures:

(i) Racked parts shall be allowed to drain fully;

(ii) The work load shall be degreased in the vapor zone until condensation ceases;

(iii) Spraying operations shall be done within the vapor layer;

(iv) When using a powered hoist, the vertical speed of parts in and out of the vapor zone shall be less than three meters per minute (ten feet per minute);

(v) When the cover is open, the lip of the degreaser shall not be exposed to steady drafts greater than 15.3 meters per minute (fifty feet per minute); and

(vi) When equipped with a lip exhaust, the fan shall be turned off when the cover is closed.

(d) For conveyorized vapor degreasers, solvent drag-out shall be minimized by the following measures:

(i) Racked parts shall be allowed to drain fully; and

(ii) Vertical conveyor speed shall be maintained at less than three meters per minute (ten feet per minute).

~~((5))~~ (6) Abrasive blasting.

(a) Abrasive blasting shall be performed inside a booth or hangar designed to capture the blast grit or overspray.

(b) Outdoor blasting of structures or items too large to be reasonably handled indoors shall employ control measures such as curtailment during windy periods and enclosure of the area being blasted with tarps.

(c) Outdoor blasting shall be performed with either steel shot or an abrasive containing less than one percent (by mass) which would pass through a No. 200 sieve.

(d) All abrasive blasting with sand shall be performed inside a blasting booth or cabinet.

**WSR 98-15-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 98-118—Filed July 1, 1998, 4:03 p.m., effective July 2, 1998, 8:00 a.m.]

Date of Adoption: July 1, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-56-33000G; and amending WAC 220-56-330.

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: There is a harvestable surplus Dungeness crab in the areas opened under this regulation. Test fishing data indicates the majority of crab in areas opened under these regulations are in a hardshell condition and crab pot fishing at this time will not result in wastage of resource damage. 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: July 2, 1998, 8:00 a.m.

July 1, 1998
Larry W. Peck
for Bern Shanks
Director

NEW SECTION

WAC 220-56-33000H Crab—Areas and seasons.

Notwithstanding the provisions of WAC 220-56-330, effective 8:00 a.m. July 2, 1998 until further notice, it is lawful to fish for and possess crab taken for personal use with shellfish pot gear in Catch Record Card Area 7 within San Juan County, and those waters east of a line extending from the pilings one mile west of the Mount Baker Plywood smoke stack in northern Bellingham Bay to the boulder at Point Francis; thence to the northern end of Inati Bay on Lummi Island; thence from Carter Point at the southern end of Lummi Island to Clark Point on the northern end of Guemes

Island; and thence to Shannon Point on Fidalgo Island. All waters of Catch Record Card Areas 8-1, 8-2, and waters of Catch Record Card Area 9 within Port Townsend Bay south of a line from Point Hudson to Marrowstone Point,

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 8:00 a.m. July 2, 1998:

WAC 220-56-33000G Crab—Areas and seasons.
(98-100)

**WSR 98-15-013
EMERGENCY RULES
DEPARTMENT OF LICENSING**

[Filed July 2, 1998, 1:55 p.m.]

Date of Adoption: July 2, 1998.

Purpose: Implementation of 2SSB 6190, legislative session.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-96A-310, 308-96A-315, 308-96A-320, 308-96A-325, 308-96A-330, 308-96A-335, and 308-96A-340; and amending WAC 308-96A-306.

Statutory Authority for Adoption: RCW 46.16.381.

Other Authority: RCW 46.01.110, 46.16.276.

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: Implementation of 2SSB 6190, 1998 legislative session.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 5, Amended 1, Repealed 7.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, Amended 1, Repealed 7.

Number of Sections Adopted Using Negotiated Rule Making: New 5, Amended 1, Repealed 7; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

July 2, 1998
Evelyn P. Yenson
Director

EMERGENCY

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

WAC 308-96A-306 Definitions—Disabled person special parking privileges. For the purposes of determining eligibility for special disabled person parking placards and license plates, the following definitions apply:

(1) ~~("Public transportation authorities" are those entities operating motor vehicles owned or leased by Washington state, or a town, city, county, municipality, or metropolitan or municipal corporation within the state, or United States government agencies or Indian nations used for the primary purpose of transporting persons with disabilities described in RCW 46.16.381. Public transportation authorities may contract with private carriers to perform services entitling the carriers to the special parking privileges.~~

(2) ~~"Private carriers" are those entities contracting with public transportation authorities to transport persons with disabilities described in RCW 46.16.381.~~

(3) ~~"Adult family homes" means a regular family abode licensed under chapter 70.128 RCW.~~

(4) ~~"Licensed physician" means, for the purpose of determining a disability that limits or impairs the ability to walk and meets one of the criteria set forth in RCW 46.16.381, a health care provider licensed, certified, registered, or otherwise authorized by the department of health to provide health care in the ordinary course of business or practice as a profession. Licensed physician includes, but is not limited to, medical doctors, chiropractors, osteopaths, physician's assistants, and nurse practitioners, but does not include those persons licensed in the professions of optometry, fitting and dispensing of hearing aids, dentistry, or dental hygienist.)~~ "Licensed physician" means, for the purpose of determining the disability that limits the ability to walk that meets the criteria set forth in RCW 46.16.381(1), a health care provider licensed by the department of health to provide health care in the ordinary course of business or practice whose ordinary practice includes those areas covered in the statute. Licensed physician includes medical doctors and osteopaths. For purposes of RCW 46.16.381 (1)(b) and (c), licensed physician also includes chiropractors. Licensed physician does not include persons licensed in the professions of optometry, fitting and dispensing hearing aides, dentistry or dental hygienist.

(2) "Permanent" means a licensed physician has certified that the qualifying disability condition is expected to last at least five years.

(3) "Permit" means the eligibility for the placard, photo ID or special license plate(s).

(4) "Photo ID" means the identification card referred to in RCW 46.16.381(3).

(5) "Private carriers" means those entities contracting with public transportation authorities to transport persons with disabilities described in RCW 46.16.381.

(6) "Privilege" means the right to utilize the benefits associated with the permit.

(7) "Privilege expiration date" means:

(a) The last day of the month specified on a temporary placard; or

(b) Not less than five years from the month and year of issuance of a permanent placard, as specified by the department on the placard.

(8) "Public transportation authorities" means those entities operating motor vehicles owned or leased by Washington state, or a town, city, county, municipality, or metropolitan or municipal corporation within the state, or United States government agencies or Indian nations used for the primary purpose of transporting persons with disabilities described in RCW 46.16.381.

(9) "Signature" means any memorandum, mark, or sign made with intent to authenticate an application for a placard, or the subscription of any person thereto as provided in RCW 9A.04.110(23).

NEW SECTION

WAC 308-96A-311 General provisions. (1) **How do I qualify for a disabled person parking privilege?**

In order to qualify for a disabled person parking privilege, a licensed physician must certify that you meet one of the requirements listed in RCW 46.16.381(1).

(2) **What types of placards are issued?**

The types of placards you may receive are:

- (a) Temporary for a period of up to six months; or
- (b) Permanent.

(3) **How do I apply for a disabled person's parking privilege?**

To apply for the disabled person's parking privilege, a licensed physician must complete and certify his or her portion of the application. Then, you must complete and sign your portion of the application and submit it to the department as provided in WAC 308-96A-312 (temporary placard), WAC 308-96A-313 (permanent placard) or WAC 308-96A-314 (special license plates).

(4) **How long is the disabled person's parking privilege valid?**

The temporary privilege, as certified by the licensed physician, is valid for up to six months from the date of issuance. The permanent privilege is valid for five years from the date of issuance by the department for the privilege.

(5) **When is the disabled person's parking privilege no longer valid?**

The disabled person's parking privilege is no longer valid:

- (a) Upon expiration of the privilege;
- (b) Upon death of the disabled person;
- (c) If the disability no longer exists; or
- (d) If the privilege was issued in error.

(6) **What are the penalties for violating the law on disabled person's parking privilege?**

(a) It is a gross misdemeanor with a penalty of up to one year in jail and a fine of five thousand dollars, or both, to provide false information on an application for a disabled parking permit.

(b) It is a traffic infraction with a penalty of two hundred fifty dollars for any unauthorized person to:

(i) Use a disabled person parking placard, special license plates or photo ID card;

(ii) Obtain special license plates, a disabled person parking placard or photo ID card in any manner not established by law.

(c) It is a parking infraction, with a penalty of two hundred fifty dollars for a person to:

(i) Exercise the parking privilege without special license plates or a disabled person parking placard;

(ii) Block the access aisle or ramp located next to a space reserved for physically disabled persons.

(d) The court may impose an additional penalty, which is sufficient to reimburse the local jurisdiction for any costs incurred in removal and storage of the improperly parked vehicle.

NEW SECTION

WAC 308-96A-312 Temporary disabled person parking placard. (1) Where and how may I obtain a temporary disabled person parking placard?

You may obtain a temporary disabled person parking placard by mail or at any vehicle licensing office or driver licensing-licensing services office. You must submit a completed and signed application certified by a licensed physician.

(2) How long does the temporary disabled person parking placard last?

The temporary disabled person parking placard may last for up to six months from the date of issuance by the department.

(3) Can my temporary disabled person parking placard be extended?

No. If your condition continues beyond the expiration date, you may obtain a new temporary disabled person parking placard by submitting a completed and signed new application certified by a licensed physician.

(4) What happens if the temporary disabled person parking placard is lost, mutilated, destroyed, or stolen?

If you wish to replace your temporary disabled person parking placard, complete and sign a statement explaining what happened to the placard. A new temporary disabled person parking placard will be issued indicating the original expiration date.

(5) When is the temporary disabled person parking placard no longer valid?

The placard is no longer valid:

- (a) Upon expiration of the privilege;
- (b) Upon death of the disabled person;
- (c) If the disability no longer exists;
- (d) If a replacement placard has been issued; or
- (e) If the privilege was issued in error.

(6) What should I do when my temporary placard is no longer valid?

You should destroy it.

(7) If I qualify for a temporary disabled person parking privilege, how is the privilege identified?

You may receive one temporary placard.

NEW SECTION

WAC 308-96A-313 Permanent disabled person parking placard/photo ID—Individual. (1) Where may I obtain a permanent disabled person parking placard(s) and photo ID card?

You may obtain the permanent disabled person parking placards and photo ID card only from drivers licensing-licensing services offices.

(2) Why is the photo ID issued?

The photo ID is issued to assist law enforcement in determining that the person who is using the disabled person parking placard is the person to whom the placard was issued.

(3) Must I present the photo ID upon request of law enforcement?

Yes.

(4) What do I need to receive the photo ID card?

You need:

- (a) Completed application; and
- (b) Proof of identity which includes the following:
 - (i) Washington drivers license;
 - (ii) Washington identification card;
 - (iii) Other valid identification document specified by

RCW 46.20.035;

(iv) Affidavit of parent, guardian, or person with power of attorney; or

(v) Affidavit of individual applying for disabled person parking permit.

(5) When does the permanent disabled person parking placard(s) expire?

The permanent disabled person parking placard(s) is issued for not less than five years from the month and year of issuance, and expires on the last day of the month specified on the placard. Example: If a permanent placard is marked to expire in May 2003, it expires on May 31, 2003. The department may issue a placard for a period of longer than five years from the month and year of issuance, but for no more than six years, as may be necessary to stagger the permanent placard renewal workload.

(6) How do I replace a permanent disabled person parking placard that has become lost, mutilated, destroyed, or stolen?

If you wish to replace your permanent disabled person parking placard, complete and sign a statement explaining what happened to the placard and return your existing photo ID card. A new permanent disabled person parking placard and photo ID will be issued indicating the original expiration date.

(7) How do I replace my photo ID that has become lost, mutilated, destroyed or stolen?

In order to replace your photo ID, you must appear in person at a driver licensing-licensing services office. You shall complete and sign a statement explaining what happened to the photo ID, and present proof of identity as provided in subsection (4) of this section. A new photo ID will be issued indicating the previously issued placard number(s).

(8) How do I renew my permanent disabled person parking placard(s)?

The department will mail you a renewal notice thirty days prior to expiration. The permanent parking placard is renewed by submitting a completed renewal notice or new

application with existing photo ID card or proof of identity as provided in subsection (4) of this section at a driver licensing-licensing services office. You will receive new permanent disabled person parking placards and a new photo ID.

(9) When are the permanent disabled person parking placard(s) no longer valid?

The permanent disabled person parking placard is no longer valid:

- (a) Upon expiration of the permanent placard;
- (b) Upon death of the disabled person;
- (c) If the disability no longer exists;
- (d) If the privilege was issued in error; or
- (e) If a replacement permanent parking placard has been issued.

(10) If I qualify for a permanent disabled person parking privilege, how is the privilege identified?

You may receive:

- (a) One placard;
- (b) One set of special license plates;
- (c) One placard and one set of special license plates; or
- (d) Two placards.

(11) How do I obtain a second permanent disabled person parking placard?

You may obtain a second placard upon written request.

NEW SECTION

WAC 308-96A-314 Disabled person special license plates—Individual. (1) Where can I obtain a disabled person special license plate?

Disabled person special license plates are available at vehicle licensing offices only.

(2) How do I obtain disabled person special license plates?

In order to receive disabled person special license plates:

- (a) Your name must be shown on the department's record as being a registered owner of the vehicle; and
- (b) You must submit a completed application certified by a licensed physician or have a disabled person privilege established with the department.

(3) When do the disabled person special license plates expire?

The disabled person special license plate carries the expiration date of your vehicle registration and must be renewed annually. The privilege to use the disabled person special license plate expires five years from the month of issuance of the privilege.

(4) May I have a disabled person placard when I have the disabled person special license plate?

Yes, you may have one disabled person placard in addition to your disabled person special license plates.

(5) When are the disabled person special license plates no longer valid?

The disabled person special license plates are no longer valid when:

- (a) The plates expire;
- (b) The privilege expires;
- (c) Upon death of the disabled person;
- (d) If the disability no longer exists; or
- (e) If the privilege was issued in error.

(6) How do I replace a disabled person's special license plates if they become lost, mutilated, destroyed, or stolen?

You shall complete and sign a statement explaining what happened to the disabled person's special license plates. New special disabled person's license plates will be issued indicating the original expiration date. This voids the previously issued plates.

NEW SECTION

WAC 308-96A-316 Permanent placard and disabled person special license plates for organizations. (1) When can a qualifying organization exercise the privilege?

Only when transporting any person who meets the criteria under RCW 46.16.381(1).

(2) How does an organization qualify for disabled person's special license plates and permanent disabled person's parking placards?

The organization must meet the criteria in RCW 46.16.381(3).

(3) How does a qualifying organization apply for disabled person's special license plates and permanent disabled person's parking placards?

The organization must submit a properly completed disabled person parking privileges organization application to the department with appropriate documentation as indicated on the application.

(4) Where does a qualifying organization obtain disabled person's parking placard(s) or disabled person's special license plates?

A qualifying organization may obtain permanent disabled person's parking placard(s) only from driver licensing-licensing services offices. Disabled person's special license plates may be applied for at any vehicle licensing office.

(5) Is a qualifying organization issued a photo ID?

No. A photo ID may not be issued for an organization.

(6) When does the permanent disabled person's parking placard(s) expire?

The permanent disabled person's parking placard(s) expires five years from the date of issuance to the department.

(7) When do the disabled person special license plates issued to a qualifying organization expire?

The disabled person special license plates reflect the expiration date of the vehicle registration and must be renewed annually.

(8) How does a qualifying organization replace permanent disabled person's parking placards or disabled person's special license plates if they become lost, mutilated, destroyed, or stolen?

The organization shall complete and sign a statement explaining what happened to the placards or disabled person's special license plates. New permanent disabled person's parking placards or disabled person's special license plates will be issued indicating the original expiration date. This voids the previously issued permanent placards or plates.

(9) How does a qualifying organization renew their permanent disabled person's parking placard?

The department will send a disabled person's parking renewal notice to the qualifying organization thirty days prior to expiration. The privilege is renewed by submitting the completed and signed renewal notice to the department. A new application may be submitted in lieu of the renewal notice. Upon receipt of the properly completed and signed renewal notice or application the department will issue new placards.

(10) When are the placard and disabled person special license plates no longer valid?

Placard(s) and disabled person special license plates are no longer valid when:

- (a) The organization no longer qualifies;
- (b) The organization's business license is canceled or expires;
- (c) The placard or disabled person special license plates were issued in error; or
- (d) A replacement has been issued.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-96A-310	Application—Disabled person parking privileges.
WAC 308-96A-315	Temporary placards.
WAC 308-96A-320	Cardiovascular disease or cardiac condition.
WAC 308-96A-325	Loss of disabled person parking placard, plate.
WAC 308-96A-330	Application for organization disabled person parking placards.
WAC 308-96A-335	Organization special parking privilege placards—Transfer, limitations.
WAC 308-96A-340	Disabled person parking privileges—Validation term.

**WSR 98-15-015
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 98-125—Filed July 2, 1998, 4:40 p.m., effective August 1, 1998, 12:01 a.m.]

Date of Adoption: June 30, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-19100C; and amending WAC 220-56-191.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or

general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to reduce impacts on a weak Canadian coho stock, the Thompson River run, in fulfillment of recent agreements reached between the state of Washington and Canada. The Fish and Wildlife Commission adopted a motion, with one proviso, at their June 30, 1998, meeting in Silverdale, supporting the proposal WDFW staff developed to protect Thompson River coho. That proviso required the WDFW staff to estimate reduced Area 7/7A sockeye gill net fishing effort, resulting from some gill net fishers having not yet installed mandatory "bird web" in their nets, and use those savings to shorten the August 1 through August 10 sport fishing closure in Areas 5 and 6. Staff estimated that between 50% and 80% of last year's gill net fishing effort would participate in the Area 7/7A sockeye fishery, and used the latter number as the conservative estimate for coho protection. There are too few expected gill net savings of Thompson River coho to further reduce the Areas 5 and 6 closure period, and therefore, the staff proposal is being adopted as presented to the commission.

Other Washington salmon stocks will also benefit incidentally from this action. The effect of actions taken to reduce impacts on Thompson River coho will additionally conserve commingled coho originating in the Strait of Juan de Fuca region, and weak Puget Sound chinook runs. 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: August 1, 1998, 12:01 a.m.

June 30, 1998

Lisa Pelly, Chair

Fish and Wildlife Commission

NEW SECTION

WAC 220-56-19100C Puget Sound salmon - Saltwater seasons and daily limits. Notwithstanding the provisions of WAC 220-56-191 and WAC 220-56-199:

(1) Effective 12:01 a.m. August 1, through August 10, 1998, it is unlawful to fish for or possess salmon taken for personal use from Catch Record Card Areas 5 and 6.

(2) Effective 12:01 a.m. August 16, 1998 through August 29, 1998:

EMERGENCY

(a) It is unlawful to fish for or possess salmon taken for personal use in that portion of Catch Record Card Area 7 identified as the East San Juan Islands, as described in WAC 220-56-199.

(i) Notwithstanding the provisions of subsection (a) Bellingham Bay remains open to salmon angling with a daily limit of 4 salmon of which one may be chinook.

(b) All coho must be released in that portion of Catch Record Card Area 7 lying northerly and westerly of the East San Juan Islands as described in WAC 220-56-199.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. August 29, 1998:

WAC 220-56-19100C Puget Sound salmon—Salt-water seasons and daily limits.

**WSR 98-15-016
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 98-117—Filed July 2, 1998, 4:44 p.m., effective July 3, 1998, 12:01 a.m.]

Date of Adoption: July 2, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-255.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The off-shore halibut quota for Catch Record Card Area 2 has been taken. There is still a harvestable quota available for the inshore area as a by-catch amount for recreational bottomfish anglers. 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: July 3, 1998, 12:01 a.m.

July 2, 1998

J. D. Brittell

for Bern Shanks

Director

NEW SECTION

WAC 220-56-25500H Halibut—Areas and seasons.

Notwithstanding the provisions of WAC 220-56-255, effective 12:01 a.m. July 3, 1998, until further notice it is lawful to fish for halibut seven days a week in those waters of Catch Record Card Area 2 south of the Queets River, North of 47°00'00" North latitude and east of 124°40'00" West longitude. All other waters of Catch Record Card Area 2 are closed to halibut fishing.

WSR 98-15-030

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 98-124—Filed July 7, 1998, 3:20 p.m., effective July 7, 1998, 5:00 p.m.]

Date of Adoption: July 7, 1998.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 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 all allocation requirements under Subproceeding 89-3 in *United States v. Washington*. These rules will allow for 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 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.

EMERGENCY

Effective Date of Rule: July 7, 1998, 5:00 p.m.

July 7, 1998
Larry W. Peck
for Bern Shanks
Director

NEW SECTION

WAC 220-88A-08000T Emerging commercial fishery—Puget Sound shrimp trawl experimental fishery—Seasons and gear Notwithstanding the provisions of WAC 220-88A-080, effective 5:00 p.m. July 7, 1998, until further notice, it is unlawful to fish for or possess shrimp taken for commercial purposes in Puget Sound using shellfish beam trawl gear except as provided for in this section:

(1) **Open** - in Marine Fish Shellfish Management and Catch Reporting Areas 20A, 20B, 22A, 23A, 23C, 25B and 29, except as provided for in this section.

(2) The following areas are closed to beam trawl gear:

(a) Marine Fish Shellfish Management and Catch Reporting Area 20A in waters less than 20 fathoms deep.

(b) Marine Fish Shellfish Management and Catch Reporting Area 23A east of a line projected true north from the lighthouse on Dungeness Spit.

(3) It is unlawful to harvest and retain spot shrimp, or any other species other than Pandalid shrimp.

WSR 98-15-037

EMERGENCY RULES

DEPARTMENT OF TRANSPORTATION

[Filed July 8, 1998, 8:38 a.m.]

Date of Adoption: July 8, 1998.

Purpose: Comply with 49 CFR Part 659, which requires the state of Washington to oversee the safety and security of rail fixed guideway systems (RFGS) not regulated by the Federal Railroad Administration.

Statutory Authority for Adoption: RCW 43.06.120.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The federal regulations called for compliance of system safety oversight by January 1, 1997, and system security by January 1, 1998. We have received an extension until September 1, 1998, with a threat to withhold federal funds if we are not in full compliance by that date.

Number of Sections Adopted in Order to Comply with Federal Statute: New 7, Amended 0, Repealed 0; Federal Rules or Standards: New 7, 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 7, 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.

July 6, 1998
W. L. Conrad
for Gerald E. Smith
Deputy Secretary
for Operations

Chapter 468-550 WAC

SAFETY OVERSIGHT OF RAIL FIXED GUIDEWAY SYSTEMS RULES

NEW SECTION

WAC 468-550-010 Purpose. This chapter is adopted to comply with 49 CFR Part 659 which requires the state of Washington to oversee the safety and security plans of rail fixed guideway systems (RFGS) not regulated by the Federal Railroad Administration. These rules prescribe the system safety and security criteria to be met by RFGS and is intended to improve the safety and security of RFGS in Washington state.

NEW SECTION

WAC 468-550-020 Applicability. These rules are applicable to all Washington state entities, public or private, which own, operate, or maintain RFGS that are not regulated by the Federal Railroad Administration.

NEW SECTION

WAC 468-550-030 Definitions. For the purposes of this chapter, the following definitions of terms shall apply unless the context clearly indicates otherwise:

(1) Accident, reportable means any event involving the operation of a RFGS, if as a result:

(a) An individual dies; or

(b) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or

(c) A collision, derailment, or fire causes property damage in excess of \$50,000.

(2) APTA Guidelines means the American Public Transit Association's "Manual for the Development of Rail Transit System Safety Program Plans."

(3) Chief executive officer means, but is not limited to, the mayor, county executive, or chair of the municipality, or corporate president of the public or private entity that owns, operates, or maintains a RFGS.

(4) Contractor means an entity that performs tasks required by this chapter on behalf of the department or a RFGS.

(5) Department means the Washington state department of transportation which has been designated as the state safety oversight agency.

(6) Emergency means a situation which is life threatening to passengers, employees, or others or which causes damage to any rail fixed guideway vehicle or facility or results in a significant theft of services which reduces the ability of the system to fulfill its mission.

(7) FTA means the Federal Transit Administration, or its successors, an agency within the U.S. Department of Transportation.

(8) Hazardous condition means a set of circumstances that if not identified and corrected has or will result in personal injury or property damage.

(9) Investigation means a procedure that the department or a RFGS utilizes to determine the cause of a reportable accident, hazardous condition, or security breach.

(10) Plan means the system safety and security program plan which is adopted by the RFGS detailing its safety and security policies, objectives, responsibilities and procedures.

(11) Procedure means an established and documented method to perform a task.

(12) Rail fixed guideway system or "RFGS" means any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or automated guideway that is:

(a) Included in the Federal Transit Administration's (FTA) calculation of fixed guideway route miles or receives funding under FTA's formula program for urbanized areas (49 U.S.C. 5336); and

(b) Not regulated by the Federal Railroad Administration.

(13) Risk means the probability that a security breach will occur.

(14) Safety means freedom from danger.

(15) Security means freedom from intentional danger.

(16) Security breach means an unforeseen event or occurrence that endangers life or property and may result in the loss of services or system equipment.

(17) Security incident means an unforeseen event or occurrence that does not necessarily result in death, injury, or significant RFGS property damage, but may result in a minor loss of revenue.

(18) Standard means the system safety and security program standard which is the standard developed and adopted by the department which complies with the APTA *Manual for the Development of Rail Transit System Safety Program Plans*, the Federal Transit Administration's *Transit System Security Program Planning Guide* (FTA-MA-90-7001-94-1), The Federal Transit Administration's *Implementation Guidelines for State Safety Oversight of Rail Fixed Guideway Systems*, and the *State Safety Oversight Security Handbook*.

(19) System means a composite of people, property, environment, and procedures which are integrated to perform a specific operational function in a specific environment.

(20) Three-year review means a formal, comprehensive, on-site examination by the department of a RFGS's safety and security procedures to determine whether it complies with the RFGS's policies and procedures as outlined in the RFGS's plan.

(21) Threat means any real, potential, or perceived condition that can result in a security-related incident.

(22) Unsafe condition or act means any condition or act which endangers life or RFGS property.

NEW SECTION

WAC 468-550-040 Requirements for system safety and security plans. (1) Each RFGS shall prepare a system safety and security program plan. Such Plan shall describe the RFGS's procedures for:

(a) Reporting and investigating reportable accidents, hazardous conditions, and security breaches;

(b) Submitting corrective action plans and annual safety and security audit reports;

(c) Facilitating department on-site safety and security reviews; and

(d) Addressing passenger and employee security.

The plan and any revisions thereto shall, at a minimum, conform to the standard, be approved by the RFGS's chief executive officer and submitted for departmental review by September 1, 1998, or within three months prior to beginning operations or instituting revisions to the plan.

(2) Each RFGS shall implement and comply with the provisions of its plan and any revisions thereto. Further, should the RFGS change ownership or operating or maintenance providers, the RFGS shall require its successors, assigns, and contractors to continue to comply with the RFGS's established plan and shall notify the department of any change of ownership or operating or maintenance providers within thirty days of the effective date of transfer or contract.

(3) Each RFGS and the department are prohibited from publicly disclosing or communicating in any way, to unauthorized persons, the security portions of the plan.

NEW SECTION

WAC 468-550-050 Department procedures for reviewing, approving, and filing rail fixed guideway system safety and security plans and inspections. The department shall review each RFGS plan, and all subsequent revisions, for compliance with these rules and the standard, using the APTA system safety checklist which includes:

- Policy statement and authority for the plan
- Description of purpose for the plan
- Clearly stated goals for plan
- Identifiable and attainable objectives
- System description and organizational structure
- The plan control and update procedures
- Hazard identification and resolution process
- Accidents, hazardous conditions and reporting and investigation procedures
- Internal safety audit process
- Facilities inspections (includes system equipment and rolling stock)
- Maintenance audits and inspections (all systems and facilities)
- Rules and procedures review
- Training and certification reviews and audits

- Emergency response planning, coordination and training
- System modification review and concurrence process
- Safety data acquisition and analysis
- Interdepartmental and interagency coordination
- Configuration management
- Employee safety program
- Hazardous materials program
- Drug abuse and alcohol misuse programs
- Contractor safety coordination
- Procurement

The department shall provide written concurrence with the RFGS's plan or provide written comments to the RFGS specifying required changes. The RFGS shall revise its plan to incorporate the department's review comments, if any, within sixty days after receipt thereof, and resubmit its revised plan for review. After resolving issues arising in the review process, the department shall notify the RFGS of its concurrence with the plan. The plan and the department's concurrence shall be maintained by the department in a permanent file.

NEW SECTION

WAC 468-550-060 Annual and triennial safety and security audits and reports. (1)(a) Each RFGS shall perform scheduled internal safety and security audits to evaluate compliance with the standard, identify hazardous and risk conditions, and measure the effectiveness of its plan. The RFGS shall submit to the department its internal safety and security audit schedule for the next year no later than December 15 of the preceding year. These audits shall include, but are not limited to:

- (i) Observing work practices and employee performance during system operations;
- (ii) Sampling and inspecting selected system components to verify proper maintenance; and
- (iii) Reviewing RFGS records for all phases of system operations, maintenance, and security.

The RFGS shall select a qualified person(s) or contractor to perform its internal audits and shall notify the department not later than ten days prior to performing the internal audits. The notification shall include date(s) of audit, what is to be audited, and the qualifications of those selected to perform the audit, such qualifications are subject to departmental concurrence. Each RFGS internal audit shall be conducted in accordance with a department approved written checklist designed to verify compliance with and assess the effectiveness of its plan. The department may assess the effectiveness of each RFGS audit program; however, any departmental review or concurrence shall not substitute for the RFGS's own safety and security inspection audit programs, nor relieve the RFGS from its sole liability for the safety and security of its system.

(b) Each RFGS, as a basis for its audit process, shall prepare, maintain, and make available for departmental review records that document the results of all tests, inspections, and audits conducted by the RFGS or its contractor in compliance

with the plan. These records shall include, but are not limited to:

- (i) Start-up test records;
- (ii) Drug and alcohol test records;
- (iii) Training and certification records;
- (iv) Operation performance evaluation records;
- (v) Facility inspections;
- (vi) Maintenance audits and inspections (all systems and facilities);
- (vii) Rules and procedures review;
- (viii) Emergency response planning, coordination, and training;
- (ix) System modification review and approval process;
- (x) Safety and security data acquisition and analysis;
- (xi) Interdepartmental and interagency coordination;
- (xii) Employee safety and security program;
- (xiii) Hazardous materials program;
- (xiv) Contractor safety coordination; and
- (xv) Procurement records.

These records shall be maintained by the RFGS for a minimum of three years.

(2) Internal safety and security audits shall be documented in an annual report that includes the dates the audits were conducted, the scope of the audit activity, the audit findings and recommendations, the status of any corrective actions taken as a result of the audit activity and the results of each audit in terms of the adequacy and effectiveness of the plan. This annual report for the internal safety and security audits performed during the preceding year shall be submitted to the department prior to February 15 of each year.

(3) The department shall audit each RFGS plan at least once every three years. The RFGS shall be given written notification at least thirty days in advance of the department's audit. The notification shall include a proposed schedule, planned scope, and list of activities to be reviewed for the audit. Each audit shall be preceded by an on-site, preaudit conference attended by the department's audit team, the RFGS's owner, and the RFGS staff in charge of the activities subject to audit. Each audit shall be conducted in accordance with an audit checklist. Checklists shall not restrict the department from performing additional investigations as it deems appropriate. The department shall use as a basis for its checklist the RFGS's plan and records which shall include, but are not limited to:

- (a) The RFGS operating rule book, bulletins, and procedures;
- (b) The RFGS maintenance manuals and procedures for vehicles, track and signals;
- (c) The RFGS procedures for identifying, documenting, evaluating, and correcting hazards;
- (d) The RFGS system design criteria and project engineering procedures for system modifications;
- (e) The RFGS annual internal audit reports for the previous three years;
- (f) The RFGS corrective action plans for reportable accidents, hazardous conditions, and security breaches reported to the department during the previous three years;
- (g) APTA audit reports;
- (h) National Transportation Safety Board accident investigation reports, and any other agency peer review reports, if

any, prepared during the previous three years and previously prepared department audit reports.

(4) Upon the department's completion of the triennial on-site audit, the audit team leader shall prepare a draft final audit report and submit it to the RFGS. The RFGS shall respond, in writing to the recommendations made in the draft final audit report, with a plan and schedule of corrective actions within thirty days of receipt thereof. An on-site, post audit conference shall be held following each departmental audit to review the results of the audit. Audit results that identify a deficiency that is not corrected before the post audit conference is held shall be documented in the final audit report. The final audit report shall contain the department audit team's findings and recommendations and the RFGS plan and schedule for corrective action. The final audit report shall also include the department audit team's evaluation of the effectiveness of the RFGS plan and a determination of whether the plan should be updated.

(5) The department shall summarize oversight activities for all RFGS performed during the preceding twelve months in a publicly available annual report and submit it to the FTA before March 15 of each year.

NEW SECTION

WAC 468-550-070 Notifying, investigating, and reporting accidents, hazardous conditions, and security breaches. (1) Each RFGS shall notify the department and the National Transportation Safety Board by telephone or facsimile within twenty-four hours of an occurrence of the types of accidents, hazardous conditions, or security breaches following:

- (a) Any event which results in a fatality;
- (b) Any event in which an individual suffers bodily injury and receives immediate medical treatment away from the scene;
- (c) A collision, derailment, or fire which causes property damage in excess of \$50,000;
- (d) Any fire or other hazardous event that requires the evacuation of passengers or requires the fire suppression activities conducted by a fire department;
- (e) Any collision between a rail fixed guideway vehicle and a motor vehicle at a gated grade crossing;
- (f) Any collision between rail fixed guideway vehicles, or between rail fixed guideway vehicles and other on-track equipment;
- (g) Any mainline derailment;
- (h) Any hazardous condition which has been identified by the RFGS and which could cause death or serious injury to passengers or employees if not immediately corrected; and
- (i) Any security breach that has been identified by the RFGS and which could cause death or serious injury to passengers or employees or may result in the loss of services or equipment if not immediately corrected.

(2) Each RFGS shall investigate all reportable accidents, hazardous conditions, and security breaches. The RFGS may use its own staff or a contractor to conduct its investigation and shall designate a staff person to be responsible for submitting written investigation reports and findings to the department, on a department form, within forty-five days

after the reportable accident, hazardous condition, or security breach was discovered. This report shall identify the causal factors contributing to the occurrence and contain a corrective action plan with an implementation schedule to prevent a recurrence of the accident or breach, or to mitigate the hazardous condition. The department shall review the RFGS investigation report, corrective action plan, and accompanying implementation schedule to ensure that it meets the goal of preventing and mitigating a recurrence of the reportable accident, hazardous condition, or security breach. The department has authority to perform separate, independent investigations of reportable accidents, hazardous conditions, or security breaches at its own discretion. In the event that the department does not concur with the findings of the RFGS investigation, the department shall notify the RFGS, in writing, of its review findings. The RFGS shall submit its response to the department's findings within forty-five days of receipt thereof. Should the department and the RFGS disagree, the department will notify the FTA. Each RFGS shall also submit a monthly summary report to the department covering all reportable occurrences. The monthly summary report shall be submitted whether any reportable event occurred or any hazardous condition or security breach was identified during the month.

**WSR 98-15-046
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 98-128—Filed July 8, 1998, 3:52 p.m., effective July 8, 1998, 8:00 p.m.]

Date of Adoption: July 8, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-88A-07000X and 220-88A-08000T;
and amending WAC 220-88A-070 and 220-88A-080.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These plans are necessary to implement the 1998 State/Tribal Puget Sound shrimp harvest management plan and meet all allocation requirements under Subproceeding 89-3 on *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; and 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 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: July 8, 1998, 8:00 p.m.

July 8, 1998

Larry Peck
for Bern Shanks
Director

NEW SECTION

WAC 220-88A-07000Y Emerging commercial fishery—Puget Sound shrimp pot. Notwithstanding the provisions of WAC 220-88A-070:

(1) Effective 8:00 p.m. July 8, 1998, further notice, it is unlawful to fish for or possess spot shrimp taken for commercial purposes with shrimp pot gear from Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22B, 22A, 23A, 23B, 24A, 24B, 24C, 24D, 25A, 26A, 26B, and 26C.

NEW SECTION

WAC 220-88A-08000U Emerging commercial—Fishery—Puget Sound shrimp trawl experimental fishery—Seasons and gear. Notwithstanding the provisions of WAC 220-88A-080:

(1) Effective 8:00 p.m. July 8, 1998, until further notice, it is unlawful to fish for or possess shrimp taken for commercial purposes with shellfish beam trawl gear from Marine Fish-Shellfish Management and Catch Reporting Areas 23B, 25A, 25B and all waters of Marine Fish-Shellfish Management and Catch Reporting Area 23A east of a line projected true north from the lighthouse on Dungeness spit.

REPEALER

The following sections of the Washington Administrative Code are repealed effective 8:00 p.m. July 8, 1998:

WAC 220-88A-07000X Emerging commercial fishery—Puget Sound shrimp pot (98-99)

WAC 220-88A-08000T Emerging commercial fishery—Puget Sound shrimp trawl experimental fishery—Seasons and gear. (98-124)

WSR 98-15-047

**EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 98-126—Filed July 8, 1998, 3:55 p.m., effective July 10, 1998, 12:01 a.m.]

Date of Adoption: July 8, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-25500H and amending WAC 220-56-244.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The halibut quota for Catch Record Card Area 2 has been taken. 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: July 10, 1998, 12:01 a.m.

July 8, 1998

Larry W. Peck
for Bern Shanks
Director

NEW SECTION

WAC 220-56-25500I Halibut—Areas and seasons. Notwithstanding the provisions of WAC 220-56-255, effective 12:01 a.m., July 10, 1998, until further notice it is unlawful to fish for halibut in those waters of Catch Record Card Area 2.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. July 9, 1998:

WAC 220-56-25500H Halibut—Areas and seasons. (98-117)

EMERGENCY

WSR 98-15-051
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 98-127—Filed July 9, 1998, 4:04 p.m.]

Date of Adoption: July 8, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-72-07600A; and amending WAC 220-72-076.

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: Green crab have been documented in Willapa Bay, a closely adjacent area, which serves as a ready source of larval drift invasion to Grays Harbor. This will provide protection to Puget Sound from introducing this species. 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.

July 8, 1998

Larry W. Peck
for Bern Shanks
Director

NEW SECTION

WAC 220-72-07600B Unlawful acts—Permit required. Notwithstanding the provisions of WAC 220-72-076, effective immediately until further notice, it shall be unlawful to transfer shellfish aquaculture products (including all oysters and clams, oyster seed, cultch, and shell), and aquaculture equipment (including aquaculture vehicles and vessels) from the waters and tidelands of Grays Harbor inside and easterly of a line projected from the outermost end of the north jetty to the outermost end of the south jetty without obtaining written permission from the director of fish and wildlife or the director's authorized agent. Transfers to the waters and tidelands of Willapa Bay inside and easterly of a

line projected from the most northern tip of Leadbetter Point true north to Cape Shoalwater are exempted from this written permission requirement. Such written permit must be affixed to or otherwise accompany the conveyance affecting the physical transfer of such shellfish, shellfish aquaculture products (including oyster seed, cultch, and shell), or aquaculture equipment (including aquaculture vehicles and vessels).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-72-07600A Unlawful acts—Permit required. (98-116)

WSR 98-15-052
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 98-129—Filed July 9, 1998, 4:07 p.m.]

Date of Adoption: July 9, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
 Amending WAC 232-12-017.

Statutory Authority for Adoption: RCW 77.12.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The European green crab was recently discovered in Willapa Bay and poses an imminent threat to the ecology and economy of Washington. This emergency rule will prohibit the possession and transport without a permit from the director and prevent them from spreading to other marine areas in Washington. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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.

July 9, 1998
 Larry Peck
 for Bern Shanks
 Director

Effective Date of Rule: Immediately.

July 10, 1998
 J. D. Brittell
 for Bern Shanks
 Director

NEW SECTION**WAC 232-12-01700A Deleterious exotic wildlife.**

Notwithstanding the provisions of WAC 232-12-017, effective immediately until further notice, the following animal is hereby designated as deleterious exotic wildlife:

- (1) European green crab (*Carcinus maenas*)

WSR 98-15-060
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 98-130—Filed July 10, 1998, 4:00 p.m.]

Date of Adoption: July 10, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-33000H; and amending WAC 220-56-330.

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: There is a harvestable surplus of Dungeness crab in the areas opened under these regulations. Test fishing data indicate the majority of the crab in the areas opened under these regulations are in a hardshell condition and crab pot fishing at this time will not result in wastage or resource damage. Test fishing data from a portion of Catch Record Card Area 7 indicates the majority of crab in this area are in a softshell condition and the crab pot season opening must be delayed. 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 0, Amended 1, 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.

NEW SECTION

WAC 220-56-33000I Crab—Areas and seasons Notwithstanding the provisions of WAC 220-56-330, effective 5:00 p.m. July 10, 1998 until further notice:

(1) It is lawful to fish for and possess crab taken for personal use with shellfish pot gear in Catch Record Card Area 7 within San Juan County, and in those waters east of a line extending from the pilings one mile west of the Mount Baker Plywood smoke stack in northern Bellingham Bay to the boulder at Point Francis; thence to the northern end of Inati Bay on Lummi Island; thence from Carter Point on Lummi Island to Clark Point on the northern end of Guemes Island; and thence to Shannon Point on Fidalgo Island. It is unlawful to fish for and possess crab taken for personal use with shellfish pot gear from all waters of Catch Record Card Area 7 within Whatcom County, except for those waters described above.

(2) It is lawful to fish for and possess crab taken for personal use with shellfish pot gear in all waters of Catch Record Card Areas 8-1, 8-2, and waters of Catch Record Card Area 9 within Port Townsend Bay south of a line from Point Wilson to Marrowstone Point.

REPEALER

The following section of the Washington Administrative Code is repealed effective 5:00 p.m. July 10, 1998:

WAC 220-56-33000H Crab—Areas and seasons.
 (98-118)

WSR 98-15-080
EMERGENCY RULES
BUILDING CODE COUNCIL

[Filed July 15, 1998, 2:51 p.m.]

Date of Adoption: July 10, 1998.

Purpose: To correct chapter 51-11 WAC, the 1997 Washington State Energy Code (WSEC), Section 503.7 Cooling with Outdoor Air (Economizer Cycle). The 1997 WSEC residential economizer requirements have an unintended consequence that would eliminate commonly used mechanical systems. This would not always result in an energy savings benefit and would ultimately result in undue expense. The amendment herein takes into consideration the general welfare of the public by reverting back to the existing residential economizer requirement.

Citation of Existing Rules Affected by this Order: Amending WAC 51-11-0503.7.

Statutory Authority for Adoption: RCW 19.27A.020, 19.27A.045, and 19.27.020.

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 State Building Code Council (council), based on the following good cause, finds that an emergency affecting the general welfare of the state of Washington exists. The council further finds that immediate amendment of a certain council rule is necessary for the public welfare and that observing the time requirements of notice and opportunity to comment would be contrary to the public interest.

The declaration of emergency affecting the general welfare of the state of Washington is based on the following findings: The Washington State Energy Code Section 503.7 amendments contained herein as adopted by the council under emergency rule making pursuant to RCW 34.05.350, will provide economic relief to the hospitality industry (hotel and motel owners and operators), and any multifamily residential builder or building owners by allowing more realistic performance based economizer requirements. Immediate adoption of this amendment is necessary so as to not delay the construction of multifamily residential buildings, and so as not to adversely affect the state's building industry, building owners, and building tenants by imposing an unintended economic penalty.

In the spirit of regulatory reform and for consistency the State Building Code Council amended the residential economizer section in their regular 1994-1996 code change cycle. The council simplified the code language by deleting the existing requirement and replacing it with a reference to the nonresidential economizer requirements. This change had unintended consequences for multifamily residential applications. Under rules contained in the 1997 WSEC, Section 503.7 Cooling with Outdoor Air (Economizer Cycle), the residential economizer requirements would eliminate commonly used mechanical systems, would not always result in an energy savings benefit, and would ultimately result in undue expense. The council finds this to be an economic burden on the building and design industries, which will result in an increase in the cost of housing for multifamily residential buildings including hotels, motels, group homes, apartments and condominiums.

The amendment herein takes into consideration the general welfare of the public by reverting back to the existing residential economizer requirement. In order to provide immediate relief, the council finds it necessary to adopt the amendment as an emergency rule. The council also has taken the necessary steps to adopt a permanent rule. The permanent rule will not be effective until the end of the 1999 legislative session as per RCW 19.27.074.

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.

July 10, 1998
Mike McEnaney
Council Chair

[AMENDATORY SECTION (Amending WSR 98-03-003, filed 1/8/98)]

WAC 51-11-0503 Building mechanical systems.]

503.7 Cooling with Outdoor Air (Economizer Cycle):
~~Systems and equipment that provide mechanical cooling shall comply with Section 1413 and, as appropriate, Section 1423 or Section 1433. Each fan system shall be designed to use up to and including 100% of the fan system capacity for cooling with outdoor air automatically whenever its use will result in lower usage of new energy. Activation of economizer cycle shall be controlled by sensing outdoor air enthalpy or outdoor air dry-bulb temperature alone or alternate means approved by the building official.~~

Exceptions: Cooling with outdoor air is not required under any one or more of the following conditions:

1. The fan system capacity is less than 3,500 cfm or total cooling capacity is less than 90,000 Btu/h.

2. The quality of the outdoor air is so poor as to require extensive treatment of the air and approval by the building official.

3. The need for humidification or dehumidification requires the use of more energy than is conserved by the outdoor air cooling on an annual basis.

4. The use of outdoor air cooling may affect the operation of other systems so as to increase the overall energy consumption of the building.

5. When energy recovered from an internal/external zone heat recovery system exceeds the energy conserved by outdoor air cooling on an annual basis.

6. When all space cooling is accomplished by a circulating liquid which transfers space heat directly or indirectly to a heat rejection device such as a cooling tower without use of a refrigeration system.

7. When the use of 100% outside air will cause coil frosting, controls may be added to reduce the quantity of outside air. However, the intent of this exception is to use 100% air in lieu of mechanical cooling when less energy usage will result and this exception applies only to direct expansion systems when the compressor is running.

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

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

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

**WSR 98-15-091
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 98-131—Filed July 16, 1998, 3:21 p.m.]

**WSR 98-15-090
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 98-132—Filed July 16, 1998, 3:20 p.m., effective July 18, 1998, 8:00 a.m.]

Date of Adoption: July 16, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary because the closure is no longer needed since hatchery needs have been met. 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: July 18, 1998, 8:00 a.m.

July 16, 1998

J. D. Brittell
for Bern Shanks
Director

NEW SECTION

WAC 232-28-61900R Regional exceptions to permanent game fish rules. Notwithstanding the provisions of WAC 232-28-619, effective 8:00 a.m. July 18, 1998 until further notice, it is lawful to fish for and possess game fish in those waters of the Skykomish River (Snohomish County) one thousand five hundred feet upstream and one thousand feet downstream of the outlet at Skykomish Rearing Ponds.

Date of Adoption: June 16, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-350 and 220-56-380.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The openings provide additional opportunity for the recreational fishery to take its share of the harvestable resource. The closures ensure conservation and/or court ordered sharing of the allowable harvest. 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 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

July 16, 1998

J. D. Brittell
for Bern Shanks
Director

NEW SECTION

WAC 220-56-35000U 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 except as provided below:

- (1) Port Townsend Ship Canal - **Open** until further notice
- (2) Shine Tidelands State Park - **Open** until further notice
- (3) South Indian Island County Park - **Open** until further notice
- (4) Point Whitney Tidelands - **Closed** until further notice

NEW SECTION

WAC 220-56-38000M Oysters—Areas and seasons. Notwithstanding the provisions of WAC 220-56-380, effective immediately until further notice, it is unlawful to harvest or possess oysters taken for personal use from Point Whitney Tidelands.

**WSR 98-15-106
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 98-133—Filed July 17, 1998, 4:29 p.m., effective July 18, 1998, 12:01 a.m.]

Date of Adoption: July 17, 1998.
Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-57-42500D; and amending WAC 220-57-425.

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 sockeye salmon are returning to Baker Lake. 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: July 18, 1998, 12:01 a.m.

July 17, 1998
Larry W. Peck
for Bern Shanks
Director

NEW SECTION

WAC 220-57-42500D Skagit River. Notwithstanding the provisions of WAC 220-57-425, effective 12:01 a.m. July 18, 1998 through July 31, 1998, special daily limit of two sockeye salmon in those waters of the Skagit River from the Dalles Bridge at Concrete to the mouth of the Baker River

and the Baker River from its mouth to the Highway 20 Bridge.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. July 31, 1998:

WAC 220-57-42500D Skagit River.

**WSR 98-15-107
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 98-134—Filed July 17, 1998, 4:31 p.m.]

Date of Adoption: July 17, 1998.
Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-72-07600B; and amending WAC 220-72-076.

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: Green crab have been documented in Willapa Bay, a closely adjacent area, which serves as a ready source of larval drift invasion to Grays Harbor. This regulation will provide protection to Puget Sound from introducing this species. 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.

July 17, 1998
Larry Peck
for Bern Shanks
Director

EMERGENCY

NEW SECTION

WAC 220-72-07600C Unlawful acts—Permit required. Notwithstanding the provisions of WAC 220-72-076, effective immediately until further notice, it shall be unlawful to transfer shellfish aquaculture products (including all oysters and clams, oyster seed, cultch, and shell), and aquaculture equipment (including aquaculture vehicles and vessels) from the waters and tidelands of Grays Harbor inside and easterly of a line projected from the outermost end of the north jetty to the outermost end of the south jetty and from the waters and tidelands of Willapa Bay inside and easterly of a line projected from the most northern tip of Leadbetter Point true north to Cape Shoalwater without obtaining written permission from the director of fish and wildlife or the director's authorized agent. Transfers to the waters and tidelands of Willapa Bay inside and easterly of a line projected from the most northern tip of Leadbetter Point true north to Cape Shoalwater are exempted from this written permission requirement. Such written permit must be affixed to or otherwise accompany the conveyance affecting the physical transfer of such shellfish, shellfish aquaculture products (including oyster seed, cultch, and shell), or aquaculture equipment (including aquaculture vehicles and vessels).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-72-07600B Unlawful acts—Permit required. (98-127)

**WSR 98-15-122
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 98-135—Filed July 21, 1998, 9:08 a.m.]

Date of Adoption: July 20, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-52-07100F; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of sea cucumbers are available in all districts and areas listed. The non-Indian share of sea cucumbers in Marine Fish Shellfish Management and Catch Reporting Areas 26D and 28A - 28D is expected to be taken in one and one half days. San Juan Channel and southwestern Haro Strait are closed consistent with state/tribal agreement. Titlow Beach Marine Preserve and Sund Rock Marine Preserve are closed to preserve the

character of the Marine Preserves. Tatoosh Island closure is consistent with tribal agreements. Eagle Harbor and Sinclair Inlet are closed for health-related reasons. 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.

July 20, 1998

J. D. Britnell

for Bern Shanks

Director

NEW SECTION

WAC 220-52-07100G Sea cucumbers Notwithstanding the provisions of WAC 220-52-071, effective 6:00 a.m. July 21, 1998 until further notice, it is unlawful for non-treaty sea cucumber harvesters to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 1 (Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, and 23B), Sea Cucumber District 2 (Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23C, 23D, 25A, 25B, 25C, 25D, 25E, and 29), and Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, 26A, 26B, 26C, 27A, 27B, and 27C Monday, Tuesday, and Wednesday of each week from 6:00 a.m. to one-half hour before official sunset of each day, except for closures as provided for in this section.

(2) Sea cucumber harvest using shellfish diver gear is allowed in Marine Fish-Shellfish Management and Catch Reporting Areas 26D, 28A, 28B, 28C, and 28D on Monday, July 20, 1998 from 6:00 a.m. to one-half hour before official sunset, and on Tuesday, July 21, 1998 from 6:00 a.m. to 12:00 noon. It is unlawful to dive for any purpose from a commercially-licensed fishing vessel after 12:00 noon on Tuesday, July 21, 1998 in Marine Fish-Shellfish Management and Catch Reporting Areas 26D, 28A, 28B, 28C, and 28D, except vessels actively fishing geoducks under contract with the Washington Department of Natural Resources.

(3) The following areas are closed to the harvest of sea cucumbers at all times:

(a) Those waters of Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan

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Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(b) Those waters of San Juan Channel and Upright Channel within the following lines: north of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island, south of a line projected from Flat Point on Lopez Island true west to Shaw Island, west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island, and south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island.

(c) Titlow Beach Marine Preserve - All waters due west from the southern end of the Tacoma Outboard Association building near the boat launch ramp to the outer harbor line, then south following the outer harbor line to a line due west from the old ferry landing dock at the 6th Ave. extension then following the line to the high water line then to the point of origin.

(d) Tatoosh Island - Those waters within one-quarter mile of Tatoosh Island.

(e) Sund Rock Marine Preserve - Waters within 100 yards of the salmon net pens near Sund Rock in Hood Canal.

(f) Edmonds Underwater Park - Those tidelands and waters bounded by the mean high tide line then along the projected line of Main St. west to the outer harbor line, then 250 feet north following the outer harbor line, then back to shore, then to the point of origin.

(g) The waters of Eagle Harbor west of a line projected from Wing Point to Eagle Harbor Creosote Light Number 1 then due west to the shore on Bainbridge Island.

(h) The waters of Sinclair Inlet west of a line projected southerly from the easternmost point of Point Turner to landfall below the Veteran's Home in Annapolis.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. July 21, 1998:

WAC 220-52-07100F Sea cucumbers (98-101)

EMERGENCY

OFFICE OF THE CODE REVISER
Quarterly Rule Making Report
Covering Registers 98-07 through 98-12

Type of Activity	New	Amended	Repealed
ACCOUNTANCY, BOARD OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	9	2
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	1	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	1	9	2
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Fedral Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	9	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	1	9	2
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	1	0	2

AGRICULTURE, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	13	31	1
Number of Rules Adopted as Emergency Rules	4	3	0
Number of Rules Proposed for Permanent Adoption	2	25	11
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	4	3	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	8	23	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Fedral Rules or Standards	0	6	0
Number of Sections Adopted on the Agency's own Initiative	13	18	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	13	20	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	4	7	0

COMMUNITY AND TECHNICAL COLLEGES, STATE BOARD FOR

Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	0	9	0
Number of Rules Proposed for Permanent Adoption	0	37	4
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	9	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	9	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	9	0
Number of Sections Adopted in Order to Comply with Fedral Rules or Standards	0	9	0
Number of Sections Adopted on the Agency's own Initiative	0	9	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	9	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

COUNTY ROAD ADMINISTRATION BOARD

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	9	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Fedral Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

ECOLOGY, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	47	24	46
Number of Rules Adopted as Emergency Rules	1	1	0
Number of Rules Proposed for Permanent Adoption	2	26	1
Number of Rules Withdrawn	2	4	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	12	14	9
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	23	5	44
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Fedral Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	7	0
Number of Sections Adopted using Negotiated Rule Making	46	19	45
Number of Sections Adopted using Other Alternative Rule Making	0	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	19	5	44

EDUCATION, STATE BOARD OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	3	1
Number of Rules Proposed for Permanent Adoption	0	3	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	2	1
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Fedral Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	3	1
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	3	1
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
EMPLOYMENT SECURITY DEPARTMENT			
Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	4	0
ENERGY FACILITY SITE EVALUATION COUNCIL			
Type of Activity	New	Amended	Repealed
Number of Rules Withdrawn	0	1	0
EXECUTIVE ETHICS BOARD			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
FINANCIAL INSTITUTIONS, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	12	0
Number of Rules Proposed for Permanent Adoption	0	7	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	7	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	6	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	7	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
FINANCIAL MANAGEMENT, OFFICE OF			
Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	1	0
FISH AND WILDLIFE, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	12	26	30
Number of Rules Adopted as Emergency Rules	152	0	96
Number of Rules Proposed for Permanent Adoption	12	150	2
Number of Rules Withdrawn	38	0	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	67	13	50
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

FOREST PRACTICES BOARD

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	4	0
Number of Rules Adopted as Emergency Rules	2	11	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	2	8	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	5	10	0
Number of Sections Adopted using Negotiated Rule Making	2	4	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

GAMBLING COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	3	0
Number of Rules Proposed for Permanent Adoption	3	15	1
Number of Rules Withdrawn	0	4	1
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	4	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

GRAYS HARBOR COLLEGE

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	7	11	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	7	11	9
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted on the Agency's own Initiative	7	11	9
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

HEALTH CARE AUTHORITY

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	9	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	4	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	8	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Fedral Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	8	0
Number of Sections Adopted using Negotiated Rule Making	0	9	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

HEALTH, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	56	12
Number of Rules Adopted as Emergency Rules	12	0	0
Number of Rules Proposed for Permanent Adoption	46	84	0
Number of Rules Withdrawn	2	2	2
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	3	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	15	5
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Fedral Rules or Standards	0	3	0
Number of Sections Adopted on the Agency's own Initiative	6	25	1
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	20	6
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

HIGHER EDUCATION COORDINATING BOARD

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	3	57
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	2	22
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	3	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	14
Number of Sections Adopted in Order to Comply with Fedral Rules or Standards	0	0	14
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	1	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

HORSE RACING COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	1
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	1	0	1
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Fedral Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	1	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	1	0	1

HUMAN RIGHTS COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	34	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	2	33	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Fedral Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	2	33	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	2	33	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

INDETERMINATE SENTENCE REVIEW BOARD

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	12	0
Number of Rules Withdrawn	0	5	0

INSURANCE COMMISSIONER'S OFFICE

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	7	13	16
Number of Rules Withdrawn	8	0	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	6	8	8
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Fedral Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	6	12	11
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	6	3	6

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

LABOR AND INDUSTRIES, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	140	47	270
Number of Rules Adopted as Emergency Rules	0	1	0
Number of Rules Proposed for Permanent Adoption	110	380	62
Number of Rules Withdrawn	44	1	38
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	1	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	14	3	0
Number of Sections Adopted on the Agency's own Initiative	53	48	29
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	137	27	234
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	84	0	205

LAKE WASHINGTON TECHNICAL COLLEGE

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

LICENSING, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	16	79	89
Number of Rules Adopted as Emergency Rules	6	12	0
Number of Rules Proposed for Permanent Adoption	10	67	71
Number of Rules Withdrawn	0	6	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	9	5	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	11	32	71
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	5	12	62
Number of Sections Adopted using Negotiated Rule Making	1	24	9

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Other Alternative Rule Making	2	4	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

LIQUOR CONTROL BOARD

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	0	0
Number of Rules Proposed for Permanent Adoption	1	1	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	1	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Fedral Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	1	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

LOTTERY COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	12	2
Number of Rules Proposed for Permanent Adoption	0	2	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Fedral Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	14	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

MILITARY DEPARTMENT

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	28	6
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	9	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	9	3
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Fedral Rules or Standards	0	14	0
Number of Sections Adopted on the Agency's own Initiative	0	10	3
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	14	3
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
NATURAL RESOURCES, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	0
Number of Rules Proposed for Permanent Adoption	0	1	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	16	0
Number of Rules Proposed for Permanent Adoption	0	1	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	1	17	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	17	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	1	17	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

PARKS AND RECREATION COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	10	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	1	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	1	8	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	8	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

PERSONNEL RESOURCES BOARD/PERSONNEL, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	3	0
Number of Rules Proposed for Permanent Adoption	3	1	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	5	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Fedral Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	5	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	5	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

PILOTAGE COMMISSIONERS, BOARD OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	0
Number of Rules Proposed for Permanent Adoption	0	1	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Fedral Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

PUBLIC DISCLOSURE COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	4	2
Number of Rules Proposed for Permanent Adoption	0	3	2
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	3	2
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Fedral Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	4	2
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	4	2
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	3	55	3

PUBLIC INSTRUCTION, SUPERINTENDENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	44	26	35
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	10	13	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	7	15	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	35
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

PUBLIC WORKS BOARD

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	11	0

RETIREMENT SYSTEMS, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	28	4	3
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	28	1	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	28	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

REVENUE, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	0	1	0
Number of Rules Proposed for Permanent Adoption	0	1	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	1	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

SOCIAL AND HEALTH SERVICES, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	322	308	35
Number of Rules Adopted as Emergency Rules	84	161	21
Number of Rules Proposed for Permanent Adoption	1960	196	2814
Number of Rules Withdrawn	0	28	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	12	25	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	13	23	4
Number of Sections Adopted in Order to Comply with Federal Statute	8	30	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	7	9	0
Number of Sections Adopted on the Agency's own Initiative	47	48	7
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	37	51	4
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	4	0

TRANSPORTATION, COMMISSION AND DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	18	24
Number of Rules Adopted as Emergency Rules	0	4	0
Number of Rules Proposed for Permanent Adoption	2	15	24
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	1	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	22	3
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	2	6	21
Number of Sections Adopted using Negotiated Rule Making	2	2	0
Number of Sections Adopted using Other Alternative Rule Making	0	8	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	4	0

UNIVERSITY OF WASHINGTON

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	9	1
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	2	9	1
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	2	9	1
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	2	9	1
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

UTILITIES AND TRANSPORTATION COMMISSION

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	1	2	0

WASHINGTON STATE HISTORICAL SOCIETY

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	25	0	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted on the Agency's own Initiative	24	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

TOTALS FOR THE QUARTER:

Number of Permanent Rules Adopted	680	828	633
Number of Rules Adopted as Emergency Rules	261	203	117
Number of Rules Proposed for Permanent Adoption	2155	1089	2995
Number of Rules Withdrawn	94	51	41
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	51	123	31
Number of Sections Adopted In Order to Clarify, Streamline, or Reform Agency Procedures	112	254	154
Number of Sections Adopted in Order to Comply with Federal Statute	8	45	14
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	21	44	14
Number of Sections Adopted on the Agency's own Initiative	271	350	232
Number of Sections Adopted using Negotiated Rule Making	51	59	54
Number of Sections Adopted using Other Alternative Rule Making	202	245	259
Number of Sections Adopted using Pilot Rule Making	1	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	109	20	252

WSR 98-15-017

NOTICE OF PUBLIC MEETINGS

TRANSPORTATION IMPROVEMENT BOARD

[Memorandum—July 2, 1998]

MEETING NOTICE FOR JULY 1998

**TRANSPORTATION IMPROVEMENT BOARD
YAKIMA, WASHINGTON**

Sidewalk Committee, 10:30 a.m. - noon, Thursday, July 23, 1998, at Cavanaugh's at Yakima Center, 607 East Yakima Avenue, Lower Terrace Room, Yakima.

Increase Committee, 1:00 p.m. - 2:00 p.m., Thursday, July 23, 1998, at Cavanaugh's at Yakima Center, Lower Terrace Room.

Work Session, 2:00 p.m. - 4:00 p.m., Thursday, July 23, 1998, at Cavanaugh's at Yakima Center, Lower Terrace Room.

Bus Tour of Yakima Projects, 4:00 p.m. - 6:00 p.m., Thursday, July 23, 1998.

Board Meeting, 9:00 a.m., Friday, July 24, 1998, at Cavanaugh's at Yakima Center, Lower Terrace Room.

SPECIAL NEEDS: For special accommodations or to request an auxiliary aid, please contact the TIB office at (360) 705-7300 by July 15, 1998.

There are no regular TIB meetings scheduled in August or September. The next scheduled meeting is October 22-23, 1998, in Spokane. A notice with further detail of the October meeting will be mailed October 2, 1998.

WSR 98-15-020

NOTICE OF PUBLIC MEETINGS

EDMONDS COMMUNITY COLLEGE

[Memorandum—July 1, 1998]

**EDMONDS COMMUNITY COLLEGE
BOARD OF TRUSTEES**

MISC.

NOTICE OF SPECIAL MEETINGS
TO MEDIA/OTHER

- July 10, 1998* Edmonds Community College Board of Trustees Special Budget Meeting: EdCC, Snohomish Hall, Room 304A, 20226 [68th] Avenue West, Lynnwood, WA, 2:00 p.m.
Purpose: Budget discussion.
- July 15, 1998 Edmonds Community College Board of Trustees Special Meeting: EdCC, Snohomish Hall, Room 304A, 20226 [68th] Avenue West, Lynnwood, WA, 4:00 p.m.
Purpose: To address routine college business issues.
- July 16, 1998* Edmonds Community College Foundation Golf Tournament: Nile Country Club, 6601 244th Street S.W., Mountlake Terrace, WA, 10:30 a.m.
- August 5-7, 1998* WACTC Annual Retreat: Enzian Inn, 590 Highway 2, Leavenworth, WA, 8:00 a.m.

Please note: The regular meeting of the EdCC board of trustees for July 16, 1998, has been canceled due to a date conflict with the EdCC foundation golf tournament.

*This event is being scheduled as a special meeting, which is a study session where no action will be taken.

WSR 98-15-021
DEPARTMENT OF ECOLOGY
[Filed July 6, 1998, 1:21 p.m.]

PUBLIC OPEN HOUSE AND HEARING
DRAFT SNOHOMISH COUNTY
GROUND WATER MANAGEMENT PLAN

The Department of Ecology will hold an open house and hearing on the draft Snohomish County Ground Water Management Plan. The open house and hearing will be held on:

- Date: July 22, 1998
- Time: 6:00 p.m. Open House
7:00 p.m. Public Hearing
- Place: Ginni Stevens Hearing Room, First Floor, Snohomish County Administration Building, 3000 Rockefeller Avenue, Everett, WA

The draft Snohomish County Ground Water Management Plan is the result of several years of work by the Snohomish County Ground Water Advisory Committee (GWAC). It is a plan developed to address ground water management and protection issues in the county.

The open house will consist of a short presentation and will provide the opportunity to view the draft plan and ask ques-

tions of the GWAC. The public hearing is a formal process where oral comments can be given.

The hearing starts the "findings" process for this plan. In preparing findings, affected local governments assess the proposed plan for technical soundness, economic feasibility, and consistency with laws and regulations. The period for governments to prepare findings lasts 90 days from the hearing date and ends on October 20, 1998. Findings from affected governments should be sent to Tom Niemann, Snohomish County, Department of Planning and Development Services, 3000 Rockefeller Avenue, Mailstop #604, Everett, WA 98201.

Written public comments on the plan will be accepted until October 20, 1998, and can be addressed or faxed to Laura Lowe, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-7255, fax (360) 407-7162.

At the end of the comment period, the Snohomish County Department of Planning and Development Services consolidates comments from governments and presents them to the GWAC. The GWAC then resolves areas of nonconcurrency, and presents the final plan to the Department of Ecology for certification.

If you have special accommodation needs or require this document in an alternative format, please contact Laura Lowe at (360) 407-7255 (voice) or (360) 407-6006 (TDD).

WSR 98-15-022
NOTICE OF PUBLIC MEETINGS
WALLA WALLA
COMMUNITY COLLEGE
[Memorandum—July 1, 1998]

This is to advise you of the following change made to Walla Walla Community College's board of trustees meeting schedule:

- Changed from:** July 15, 1998, 10:30 a.m., WWCC Main Campus
- Changed to:** July 8, 1998, 12:45 p.m., WWCC Main Campus

If you have any questions on this information, please call (509) 527-4274.

MISC.

WSR 98-15-024
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
GENERAL ADMINISTRATION
 (State Capitol Committee)
 [Memorandum—July 2, 1998]

Capitol Campus (SCC) Meeting Date

Please record the following State Capitol Committee meeting date in the Washington State Register: Friday, July 10, 1998.

The meeting is being held in the Lieutenant Governor's Office, Legislative Building, Room 304, from 7:15 a.m. to 7:45 a.m. Please contact 664-9212 with any questions.

WSR 98-15-029
AGENDA
DEPARTMENT OF REVENUE
 [Filed July 7, 1998, 12:55 p.m.]

The Department of Revenue's rule development agenda shows those rules for which we anticipate some formal rule-making action, either a public meeting, hearing, or adoption, by December 31, 1998. Rules may be added or deleted from the work schedule as a result of legislative action, industry, taxpayer or agency request, or court decisions.

The department will continue to maintain a separate rules priority list which will show planned rule activity by fiscal year. Both the rules priority list and the rules development agenda will be available on the department's Internet home page at <http://www.wa.gov/dor/wadorrcw.htm#rules>.

If you would like to receive future copies of either list in the mail, please send a request to Roseanna Hodson, Legislation and Policy, Box 47467, Olympia, WA 98504-4767.

Any person currently on the excise tax rules maintenance list or property tax rules list will automatically receive a copy of the rule development agenda.

RULES DEVELOPMENT AGENDA
 Activity planned by January 31, 1998
 Last revised July 6, 1998

Rule Number	Last Revised	Subject	Explanation	Assigned to	Status
Chapter 458-12 WAC					
458-12-040	1968	Property Tax rules for Assessors	Legislative changes	Jim Winterstein	Drafting
458-12-300	1968				
458-12-301	1972				
458-12-305	1968				
458-12-326	1983				
458-12-327	1983				
458-12-330	1968				
458-12-335	1983				
458-12-336	1983				
458-12-337	1983				
458-12-338	1973				
458-12-339	1983				
Chapter 458-16 WAC					
458-16-110	1994	Exempt nonprofit property tax rules	97 & 98 legislative changes (SB 6311 & SHB 2315)	Kim Qually	CR 102 filed 6/30/98. CR 102 Public Hearing Scheduled for 8/5/98.
458-16-111	1994				
458-16-165	1994				
458-16-300	1994				
458-16-310	1994				
458-16-330	1994	Emergency or transitional housing	98 legislation (HB 2598)	Kim Qually	Candidate for expedited adoption
Chapter 458-16A WAC					
458-16A-010	1995	Homes for the aging	98 legislation (SHB 2315)	Kim Qually	Petition

MISC.

Rule Number	Last Revised	Subject	Explanation	Assigned to	Status
Chapter 458-18 WAC					
458-18-220	1996	Refunds - rates of interest	Required annually	Kim Qually	Candidate for expedited rule adoption. Must be done by 1/1/99.
Chapter 458-19 WAC					
458-19-005	1994	Property Tax levies, Rates and limits	Need revision due to Referendum 47	Jim Winterstein	
458-19-015	1994				
458-19-020	1994				
458-19-025	1994				
458-19-030	1994				
458-19-035	1994				
458-19-040	1994				
458-19-045	1994				
458-19-055	1994				
458-19-060	1994				
458-19-065	1994				
458-19-080	1994				
458-19-550	1982				
Chapter 458-20 WAC					
NEW	NEW	Vanpool vehicles and ride share credit	statute becoming hard to understand with recent legislative changes	Greg Potegal	Drafting
NEW	NEW	Manufacturing machinery and equipment exemption	95, 96, & 98 legislation	TBA	Conducting stakeholder meetings
458-20-104	1997	Small business tax relief based on volume of business	Ranged table for B&O small business credit approved by 1997 legislature	Pat Moses	Adopted as emergency rule on 5/8/98. Filed proposal for expedited adoption on 5/6/98.
458-20-119	1993	Sales of meals	97 legislation repealing selected business service tax classification	TBA	Candidate for expedited adoption
458-20-131	1983	Merchandising games, games of chance and concessionaires	Industry request	Margaret Partlow	CR 101 anticipated summer of 1998
458-20-145	1983	Local Sales and Use Tax	97 legislation (towing) and updating	Leilani Hesser	
458-20-155	1985	Information and computer services	98 legislation (SB 6449 & ESSB 6470a) and updating	Jim Carroll	
458-20-161	1983	Buying/producing Wheat, Oats, Etc. Flour millers, manufacturers of soybean or sunflower oil	95 & 98 legislation (98 E2SHB 1328 & HB 2335)	Dave Wiest	
458-20-234	1983				

Rule Number	Last Revised	Subject	Explanation	Assigned to	Status
458-20-165	1994	Laundry Services	98 legislation (HB 2566) specifically excluding laundry services to non-profit healthcare facilities from definition of retail sale.	Doug Titus	Candidate for expedited adoption
458-20-166	1994	Hotels, motels, apartments	98 legislation (SHB 1184) excluding coin-operated laundries at apartments from definition of retail sales.	Doug Titus	Candidate for expedited adoption
458-20-167	1994	Educational institutions	96 & 98 legislation (98 - HB 2335)	Pat Moses	Drafting, candidate for expedited adoption
458-20-169	1991	Nonprofits	95, 97, & 98 legislative changes (98 - SSB 5355, 6077 & SB 6599)	Ed Ratcliffe	CR 101 anticipated fall of 1998
458-20-178 458-20-17801	1986 NEW	Use tax	Updating due to recent legislation	Anne Gernhardt	Drafting
458-20-183	1995	Amusement, Recreation & Physical fitness services	Petition and legislative changes	Greg Potegal	CR 101 written comments done, drafting
458-20-18801	1992	Prescription drugs	Needs changes in light of '95, '96, '97 legislative changes	Ralph Blankenship	
458-20-192	1980	Indians	Needs updating	Leslie Cushman	Initial CR 101 Public meeting held June 1, 1998. Drafting
458-20-207	1995	Legal services	97 legislation repealing selected business service tax classification	Ed Ratcliffe	Candidate for expedited adoption
458-20-211	1996	Renting/Leasing	Petition	Greg Potegal	CR 101 for written comments anticipated summer of '98
458-20-216	1970	Successors	Updating because of legislative changes	Greg Potegal	CR 101 Public meeting held 6/24/98
458-20-222	1983	Veterinarians	Needs updating and work with industry on approach	Jim Winterstein	CR 101 Public meeting scheduled for 8/12/98
458-20-226	1996	Landscaping services	97 legislation repealing selected business service tax classification	Doug Titus	Drafting. Candidate for expedited adoption.
458-20-228	1992	Penalties and Interest	96 & 97 legislative changes	Pat Moses	Drafting. CR 101 anticipated summer of 1998.
458-20-229	1992	Refunds	97 legislative changes	Pat Moses	Drafting. CR 101 anticipated summer of 1998.

MISC.

Rule Number	Last Revised	Subject	Explanation	Assigned to	Status
458-20-231	1990	Internal distribution	98 legislation repealing tax (SSB 6077)	Doug Titus	Drafting. Candidate for expedited adoption.
458-20-238	1995	Sales to non-residents of water craft	97 legislation	Doug Titus	Drafting. Candidate for expedited adoption.
458-20-239	1983	Sales of farm machinery to nonresidents	98 legislation expanding exemption (HB 2476)	Jay Elias	Candidate for expedited adoption.
458-20-240 458-20-24001	1988 1988	S&U tax deferral Distressed area deferrals	Needs revision because of legislation	Leslie Cushman	Drafting
458-20-24003 458-20-24003A	NEW NEW	High Tech Sales and Use Tax deferral B&O R&D credit	New rule 1994 legislation	Ed Ratcliffe	Redraft after consideration of external comments. CR 101 anticipated late summer 1998
458-20-255	1991	Syrup Tax	'97 legislation	Doug Titus	Drafting. Candidate for expedited adoption.
458-20-259	1990	Small timber harvesters	Statutory changes	Doug Titus	CR 102XA filed 5/21/98
458-20-262	NEW	Agricultural employee Housing	New legislation	Cliff Ellenwood	CR 102 anticipated summer of 1998.
Chapter 458-30 WAC					
458-30-262		Agricultural land valuation-interest rate-property tax component	Required annually	Kim Qually	Expedited adoption must be done by 1/1/99
458-30-590		Rates of inflation	Required annually	Kim Qually	Expedited adoption must be done by 1/1/99
Chapter 458-40 WAC					
458-40-540		Land Values	Required annually	Ed Ratcliffe	Expedited adoption must be done by 1/1/99
458-40-660		Timber/Forest Tax stumpage values	Required semiannually	Ed Ratcliffe	Must be done by 7/1/98 and 1/1/99
Chapter 458-XX WAC					
NEW	NEW	Leasehold Excise Tax	No rules have ever been drafted; need to clarify application	Margaret Partlow	CR 101 public meeting scheduled July 30, 1998

Excise Tax Bulletins (ETBs) have been used by the Department of Revenue since 1966, when the department converted Tax Commission rulings into ETBs. Revenue Policy Memoranda were issued in 1989, 1990 and 1991 as policy statements under RCW 34.05.230. The purpose of both types of documents was to provide a vehicle for quickly advising the taxpaying public of changes to tax applications or changes in the department's positions due to court rulings, legislative changes, and business changes.

To consolidate all excise tax related interpretive or policy statements into a single series, and to clearly indicate to all readers that these documents are advisory only, the department has reissued the existing ETBs and RPMs as Excise Tax Advisories (ETAs). The department will continue reviewing the documents and canceling those which are unnecessary, and incorporating others into rules as appropriate. New interpretive or policy statements relating to excise tax will be issued as Excise Tax Advisories.

ETAs issued in the future will have a four-digit number beginning with "2." Existing ETBs which have been "converted" to ETAs retain the same three-digit number that they had as ETBs. Existing RPMs also have been converted and retain the same date/year numbering system. (Please see ETA 2001 for a more complex explanation of the numbering system.)

During the review process under Executive Order 97-02, the department is discovering that many ETBs could be included in a rule. Until the actual rule amendment takes place the ETA will remain to provide information to taxpayers and the department.

As required by RCW 34.05.230(4), a listing of the repealed ETBs and this explanation of the adoption of the new ETA series will be forwarded to the Office of the Code Reviser for publication in the Washington State Register.

Please direct any comments to the Department of Revenue, Legislation and Policy Division, P.O. Box 47467, Olympia, WA 98504-7467, or phone (360) 753-4161, e-mail eta@DOR.wa.gov, fax (360) 664-0693.

WSR 98-15-045
INTERPRETIVE STATEMENT
DEPARTMENT OF REVENUE
 [Filed July 8, 1998, 2:25 p.m.]

REPEAL OF INTERPRETIVE STATEMENT

This announcement of the repeal of this interpretive statement is being published in the Washington State Register pursuant to the requirements of RCW 34.05.230(4).

The Department of Revenue has repealed the following audit directive effective June 30, 1998.

AD 8135.1 (Construction of logging roads on private land)

The information provided in this document is incorrect. The department no longer requires that logging activity begin within three years from the time a logging road is constructed to consider the construction directly related to a logging activity.

Questions regarding the repeal of this directive may be directed to Alan R. Lynn, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 586-9040, fax (360) 664-0693, Internet alanl@dor.wa.gov.

WSR 98-15-049
NOTICE OF PUBLIC MEETINGS
ARTS COMMISSION
 [July 8, 1998]

Please be advised that the Washington State Arts Commission has moved their next scheduled meeting from August 14, 1998, to August 21, 1998. The meeting will be conducted at the Seattle Children's Theatre beginning at 9 a.m. WSR 98-13-014 had stated the meeting would take place on August 14, 1998.

1998
 Washington State Arts Commission
 Meeting Schedule

DATE	STARTING TIME	LOCATION
February 19, 1998 February 20, 1998	1:00 p.m. 9:00 a.m.	Washington State Arts Commission 234 East 8th Avenue Olympia, WA
May 29, 1998	8:30 a.m.	Washington State Arts Commission 234 East 8th Avenue Olympia, WA
August 21, 1998	9:00 a.m.	Seattle Children's Theatre 2nd Avenue North and Thomas Street Studio C Seattle, Washington
August 27, 1998 August 28, 1998	1:00 p.m. 9:00 a.m.	City of Leavenworth 700 Highway 2 Leavenworth, WA
November 19, 1998 November 20, 1998	1:00 p.m. 9:00 a.m.	City of Gig Harbor 3105 Judson Gig Harbor, WA

WSR 98-15-050
NOTICE OF PUBLIC MEETINGS
BATES TECHNICAL COLLEGE
 [July 6, 1998]

The board of trustees for Bates Technical College has cancelled the July 15, 1998, meeting due to a lack of agenda items. The regular meeting date of September 16, 1998, will be changed to September 9, 1998.

All meetings of the board are held at Bates Technical College, 1101 South Yakima Avenue, Tacoma, WA 98405, in the Clyde Hupp Board Room and commence at 3:00 p.m.

WSR 98-15-057
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE
CENTER

[July 9, 1998]

NOTICE OF PUBLIC MEETINGS

The Washington State Convention and Trade Center (WSCTC) Art Committee will meet on Monday, July 13, 1998, at 12 noon in Room 306 of the Convention Center, 800 Convention Place, Seattle.

A regular meeting of WSCTC board of directors will be held on Wednesday, July 15, 1998, at 1:30 p.m. in Room 403 of the Convention Center.

If you have any questions regarding these meetings, please call 694-5000.

WSR 98-15-058
AGENDA
UNIVERSITY OF WASHINGTON

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

The University of Washington's
 Semiannual Agenda for Rules Under Development
 (Per RCW 34.05.314)
 July 1998

Chapter 478-132 WAC, Academic calendar for the University of Washington. Rule review per Executive Order 97-02, revised review completion: Second half of 1998.

Chapter 478-210 WAC, Thomas Burke Memorial Washington State Museum. Rule review per Executive Order 97-02, revised review completion: Second half of 1998.

Chapter 478-324 WAC, Rules and regulations for the University of Washington implementation of the State Environmental Policy Act. Rule review per Executive Order 97-02, intended review completion: Second half of 1998.

Chapter 478-140 WAC, Rules and regulations for the University of Washington governing disclosure of student records. No filing as yet, revised adoption date: First half of 1999.

For more information concerning the above rules under development, contact Rebecca Goodwin Deardorff, Administrative Procedures Officer, phone (206) 543-9199, e-mail adminpro@u.washington.edu.

WSR 98-15-059
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE

[July 10, 1998]

The board of trustees of Bellingham Technical College will hold a study session to discuss budgetary matters, goal setting, and capital construction development on Tuesday, July 14, 1998, 9 a.m. to 3 p.m., at 3826 South Bay, Bellingham, WA. Call 738-3105 extension 334 for information.

WSR 98-15-061
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON

[Memorandum—July 10, 1998]

The August 21, 1998, meeting of the University of Washington board of regents has been canceled.

The next regular meeting of the board will be held as scheduled on September 18, 1998.

WSR 98-15-063
NOTICE OF PUBLIC MEETINGS
PIERCE COLLEGE

[July 8, 1998]

The board of trustees of Community College District Number Eleven (Pierce College) would like to announce a special board meeting. The time and location are below. This is a closed executive session to discuss the personnel matters.

Meeting Date/Location

Time

Tuesday, August 4, 1998

9:30 a.m.

Board Room, 325H

Pierce College at Fort Steilacoom

9401 Farwest Drive S.W.

Lakewood, WA

WSR 98-15-064
NOTICE OF PUBLIC MEETINGS
CENTRAL WASHINGTON UNIVERSITY

[July 9, 1998]

Central Washington University
 Board of Trustees Meeting Dates for 1998-99

In compliance with RCW 42.30.075, please publish the following information in the Washington State Register.

Regular meeting of the Central Washington University board of trustees will be held in Barge Hall, Room 412, on the Central Washington University Ellensburg campus, except where noted, at 1:00 p.m. on the following dates:

October 8, 1998 (Board retreat)

October 9, 1998

November 13, 1998
December 11, 1998
February 12, 1999
April 16, 1999 (CWU SeaTac Center,
2450 South 142nd, SeaTac, WA)
May 14, 1999
June 11, 1999
July 29-30, 1999 (Board retreat)

WSR 98-15-065

AGENDA

DEPARTMENT OF LICENSING

[Filed July 13, 1998, 10:14 a.m.]

Below is the rule-making agenda for the Department of Licensing. This agenda is published as a requirement of RCW 34.05.314.

Feel free to contact 902-3640 if you need any assistance concerning this matter.

MISC.

DEPARTMENT OF LICENSING
RULE MAKING AGENDA FOR RULES UNDER DEVELOPMENT
JULY 1998

CR-101	CR-102	PROGRAM	SUBJECT
96-12-078		Engineers	Implementation of Chapter 293, Laws of 1996 requiring the suspension of professional license/certification for default on federal/state guaranteed student loans.
95-17-080		Title & Registration	Procedure for titling vehicles in the name of a guardian.
96-20-005		Engineers	Expanding the board's use of brief adjudicative proceedings as provided for in RCW 34.05.482-494.
96-19-036		Fuel Tax	Provide for administrative procedures for trust fund accountability assessment for motor fuel, special fuel and aircraft fuel taxes and clarifies assessment appeal process for additional taxes, delinquent taxes and penalty and interest assessments for motor fuel.
97-06-082		Title & Registration	Confidential vehicle license plate applications and procedures.
97-06-081		Title & Registration	Confidential vessel registration applications and procedures.
97-09-083		Real Estate Appraiser	Increase real estate appraiser application certification, and renewal fees to defray costs of administering the real estate appraiser program.
97-11-002		Driver Responsibility	Procedural rules regarding the revocation and restoration of driving privileges of those forced to be an habitual traffic offender under chapter 46.65 RCW, including rules regarding the right to a hearing.
97-12-026	97-21-056	Title & Registration	Chapter 308-93 WAC, Vessel registration and certificate of title.
97-15-037		Vehicle Dealers	Change in vehicle dealer temporary permit requirements.
97-13-079		Professional Athletics	Establish new rules for the regulation of professional boxing, wrestling, kickboxing and martial arts.
97-20-057		Title & Registration	To clarify the requirements to renew a disabled parking privilege in WAC 308-96A-340. Relocate wording from WAC 308-96A-315 into WAC 308-96A-340 that address temporary disabled person parking placards. Create a new section in chapter 308-96A WAC which clarifies the return of individual disabled person parking placards and disabled person parking license plates when the privilege is no longer valid.
98-03-021	98-14-012	Title & Registrations	Chapter 308-96A WAC, Vehicle licensing, sections -005 through -040, -180, -260, -295, -300.
98-03-022	98-12-073	Title & Registrations	Chapter 308-96A WAC, Vehicle licensing, sections -080 through -097.
98-03-025	98-12-072	Title & Registration	Chapter 308-93 WAC, Vessel registration and certificate of title, section -241 through -245.
98-03-026	98-13-044	Title & Registration	Chapter 308-93 WAC, Vessel registration and certificate of title, section -060 through -085, -285, -300, -330, -350, -360, -420, -620, -630, -640.
98-03-027		Title & Registration	Chapter 308-93 WAC, Vessel registration and certificate of title, sections -110, -120, -180, -190, -200, -210, -215, -220, -230, -290, -295.
98-06-047	98-14-043	Architects	Changes to the application content or the architect examination and registration as listed in WAC 308-12-025. The changes are needed to add the structured intern training documents as required by the 1997 amendments to RCW 18.08.350 (3)(a) and (b), effective July 29, 2001.
98-06-046	98-14-043	Architects	Addition of the definition for "structured intern training program" that was added to RCW 18.08.350 (3)(a) and (b) during the 1007 [1997] legislature.
98-09-038		Title & Registration	Disabled person special parking privileges.

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98-09-077		Bail Bond Agents	Rule revisions on this subject are needed to better meet the intention of the law and to clarify the procedures provided in the rules.
98-09-078		Security Guards	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.
98-09-073	98-13-027	Auctioneer	Auctioneer/company license fee increase and housekeeping for clarity and consistency.
98-09-074	98-13-026	Court Reporter	Court reporter license fee increase.
98-09-075	98-13-028	Employment Agency	Employment agency main office and branch office renewal fee increase and housekeeping for clarity and consistency.
98-09-076	98-13-070	Camping Resorts	License fee increase.
98-10-087		Funeral	Changing annual license expiration dates of funeral establishments, branch funeral establishments, and crematories from June 30 to January 31; and changing the period for which crematory license renewal fees are determined from "June 1 to May 31" to "previous calendar year."
98-09-079		Boxing	Rule revisions on this subject are needed to clarify processes and procedures.
98-11-025		Engineers	Repeal rules that are outdated or unnecessary, WAC 196-04-010, 025, 030.
98-11-038		Funeral	Reinstatement of license or registration following suspension for failure to comply with a support order under chapter 74.20 RCW or a residential or visitation order under chapter 26.09 RCW.
98-11-039		Funeral	A director fee hearing to raise cemetery licensing fees within the limits of Initiative 601.
98-10-063	98-12-066	Real Estate	Increase real estate appraiser application, certification, and renewal fees to defray costs of administering the real estate appraiser program.
98-10-071		Dealers	Chapter 308-66 WAC, Motor vehicle dealers and manufacturers review in accordance with Governor Gary Locke's Executive Order 97-02.
98-13-003		Prorate and Fuel Tax	Administration and collection of motor vehicle fuel and special fuel excise taxes. Chapter 308-72 WAC, Motor vehicle fuel tax and chapter 308-77 WAC, Special fuel tax rules and regulations.
N/A	98-12-065	Appraisers	Incorporation by reference of the 1998 edition of the Uniform Standards of Professional Appraisal Practice, the generally recognized national organized standards of real estate appraisal.
98-13-071		Real Estate	Pursuant to the Real Estate Commission rules review plan in accordance with the governor's executive order on regulatory improvement, the following rule chapters will be subject to review, possible amendment or repeal: Chapters 308-124, 308-124B, and 308-124F WAC.
	98-15-014	Title & Registration	Disabled person special parking privilege.
98-14-080		Title & Registration	Chapter 308-56A WAC, General procedures for making applications for ownership, sections - 025, 030, 035, 040, 050, 055, 060, 100, 105, 110, 125, 130, 135.
98-14-057		UCC	Establish rules and fees for sale of microfilm, magnetic tape, and other information obtained from the UCC filing office; amend rules to include fee increase for filings, searches, and on-line access; review current rules for applicable amendments/deletions.
98-14-081		Title & Registration	Chapter 308-97 WAC, Vehicle license interstate and intransit permits, sections - 010, 060, 090, 125, 175, 205, 230.
98-14-082		Title & Registration	Chapter 308-93 WAC, Vessel registration and certificate of title, sections - 087, 088, 660, 670.

Walt Fahrer
Rules Coordinator

MISC.

WSR 98-15-072
NOTICE OF PUBLIC MEETINGS
STATE BOARD OF EDUCATION

[Memorandum—July 14, 1998]

WASHINGTON STATE BOARD OF EDUCATION
SCHEDULE OF REGULAR MEETING DATES AND LOCATIONS
1998 CALENDAR YEAR

- January 28-29, 1998 ESD 113 (Olympia)
601 McPhee Road S.W.
Olympia, WA 98502
(360) 586-2933
- March 18-19, 1998 Fife School District
5802 20th Street East
Tacoma, WA
(253) 922-6697
- May 13-15, 1998 Lake Quinault Lodge
Olympic National Forest
South Shore Road
Quinault, Washington 98575
(360) 288-2900
- June 17, 1998 Puget Sound Educational Service
District
400 S.W. 152nd
Burien, WA 98166-2209
(206) 439-3636
- August 18-20, 1998 Center for Education Leadership
Vancouver School District
2921 Falk Road
Vancouver, WA 98661
(360) 737-7382
- October 28-29, 1998 Oak Harbor School District
200 S.E. Midway Boulevard
Oak Harbor, WA 98277-5015
(360) 679-5831

WSR 98-15-079
PROCLAMATION
OFFICE OF THE GOVERNOR

[July 15, 1998]

WHEREAS, heavy rains, flash flooding, and slides occurred on July 3, 1998, threatening citizens and property of Washington State;

WHEREAS, the heavy rains, flash flooding, and slides caused extensive damage to public utilities, public facilities and infrastructure in Yakima and Kittitas Counties;

NOW, THEREFORE, I, Gary Locke, Governor of the state of Washington, as a result of the aforementioned situation and under RCW 38.08, 38.52, and 43.06, do hereby proclaim that a state of emergency exists in Yakima and Kittitas Counties and direct the supporting plans and procedures to the Wash-

ington State Comprehensive Emergency Management Plan be implemented. State agencies and departments are directed to utilize state resources and to do everything possible to assist affected political subdivisions in an effort to respond and recover from the event.

Additionally, the Washington State Military Department, Emergency Management Division (EMD) is instructed to coordinate all event-related assistance to the affected areas.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia this 15th day of July, A.D., nineteen hundred and ninety-eight.

Gary Locke

Governor of Washington

BY THE GOVERNOR:

Michelle Burkheimer

Acting Deputy Secretary of State

WSR 98-15-095
ATTORNEY GENERAL'S OFFICE

[Filed July 16, 1998, 3:50 p.m.]

NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION
WASHINGTON ATTORNEY GENERAL

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by August 12, 1998. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by August 12, 1998, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 753-2678, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, Washington 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion request(s).

98-06-08 Request by Mary Campbell McQueen, Administrator, Office of the Administrator for the Courts

MISC.

Are county clerks authorized to provide information to the Judicial Information System which is otherwise subject to statutory restrictions on dissemination, such as juvenile dependency information (RCW 13.50.100) and mental commitment case information (RCW 71.05.390)?

WSR 98-15-096
POLICY STATEMENT
WASHINGTON STATE LOTTERY
 [Filed July 16, 1998, 4:00 p.m.]

The Washington State Lottery has recently adopted or revised the following policies:

POL 130.012 - Using Winning On-Line Tickets in Security Investigations (new)

This policy authorizes a lottery security designee to cash winning on-line tickets when investigating retailers for nonpayment, or underpayment, of winning on-line tickets. The designee uses only nonvalidated winning tickets that are valued under \$600 and received through the mail. The procedure includes methods validations uses to pay the claimant for the ticket(s) used in an investigation. The internal audit manager performs an annual audit of the on-line tickets used in investigations.

Signed 4/21/98

POL 130.013 - Deadly Weapons Prohibition (new)

Lottery employees are prohibited from carrying or handling deadly weapons in all agency-leased or owned facilities and vehicles, and in any location where an employee is on duty for the agency. This prohibition does not apply to lottery security personnel specifically authorized by the director to carry weapons as part of his/her official duties.

Deadly weapon is defined as including but not limited to blackjacks, sling shots, billies, sand clubs, sandbags, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any razor with an unguarded blade, any metal pipe or bar used or intended to be used as a club, any explosive, and any weapon containing poisonous or injurious gas.

Signed 6/3/98

POL 230.002 - Electronic Funds Transfer (EFT) Rejections (revision)

Lottery security will no longer be involved with any collection of funds from retailers whose EFT account sweeps rejected. All collection efforts are handled by the lottery's contracted collection agency.

Signed 5/21/98

POL 310.001 - Sales Incentive Program (revision)

Formerly known as the "I-Range Sales Incentive Program," district sales representatives and telemarketing representatives may now earn incentive pay cumulatively. For instance, DSRs who do not meet or exceed their sales incen-

tive target levels during the first quarter (25%), but meet or exceed this level by 50% during the second quarter, will receive their incentive for both quarters.

New target levels were established, as follows:

	Old	New
Target 1	Meets goal	1% above goal
Target 2	3% above goal	2% above goal
Target 3	5% above goal	3% above goal

Signed 5/26/98

POL 320.044 - Summer Quinto Promotion (Region 3) (new)

This policy established a promotion to increase on-line Quinto sales in Region 3 by encouraging clerks and store owners to "plus sell" on-line Quinto tickets. The promotion ran from 6:00 a.m. June 1 through 6:52 p.m. June 20, 1998. The process included: a) Randomly awarding Region 3 lottery retail clerks with lottery promotional items and other prizes when the on-line terminal produced a clerk voucher; b) rewarding the Region 3 retailer with the highest dollar increase, and the retailer with the highest percentage increase, in on-line Quinto sales over their 1997 average; and c) randomly awarding prizes, via a random computerized drawing, to retailers who participated in this promotion.

Signed 5/21/98

POL 420.012 - Purchasing Purchased Goods and Services (revision)

Program managers are now authorized to purchase supplies, equipment and services through \$5,000 (raised from \$1,000). Assistant directors are now authorized approval through \$10,000 (raised from \$5,000). The director's executive assistant is now authorized to make furniture purchases through \$5,000 (raised from \$1,000). Also clarified that the director may delegate written authority for payment approval of contracts to contract managers; approval amounts may exceed the above limits.

Signed 4/21/98

POL 440.006 - Internet/Intranet Use/Access (new)

This policy authorizes lottery employees to use their Internet/Intranet accesses as a communication and research tool for official lottery business only. All employees are authorized to use Internet e-mail and the state's Intranet system, including the exchange mail system. The policy also authorizes some employees for full Internet access.

Signed 4/28/98

POL 440.007 - Processing Electronic Funds Transfers (revision)

Retailer accounts are now swept every Tuesday. New accounts are no longer prenoted. Retailers with new accounts are no longer telephoned with a reminder of their first sweep date.

Signed 5/21/98

MISC.

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.

July 13, 1998
Merritt D. Long
Director

WSR 98-15-099
OFFICE OF THE GOVERNOR

[Filed July 17, 1998, 10:45 a.m.]

**Executive Response to Petition to Repeal or Amend a
Rule
(Notification to the Code Reviser)**

Enclosed herewith is a copy of my decision regarding the Petition to Repeal or Amend a Rule pursuant to RCW 34.05.330 (2)(3).

Name of Petitioner: Pacific Northwest Aerial Applicators Alliance (PNWAAA).

Date Petition Received: May 27, 1998.

Agency: Department of Agriculture.

Comments:

July 9, 1998

Mr. Timothy E. Miller
Miller and Associates
5005 SW Meadows Road, Suite 405
Lake Oswego, Oregon 97035

Dear Mr. Miller:

On April 27, 1998, Jim Jesernig, Director of the Department of Agriculture (the "Department") denied your petition for amendment of WAC 16-229-010 through 16-229-480 and WAC 16-201-010 through 16-201-290, rules relating to fertilizer and pesticide containment (the "Rules"). You timely appealed the agency's denial of your petition to the Governor as authorized by RCW 34.05.330.

The Department's denial of your petition is affirmed for the reasons discussed below.

Your appeal seeks amendment of the Rules to exclude commercial aerial applicators from coverage. You cite four reasons for such amendment; I will address each of your points in turn.

1. *The Small Business Economic Impact Statement ("SBEIS") prepared by the Department does not comply with RCW 19.85.040 and the Department failed to comply with RCW 19.85.030 in its preparation.*

As noted in Director Jesernig's response to your petition, the Regulatory Fairness Act, 19.85 RCW, which contains SBEIS statutes, has been amended since the Rules were adopted in March 1994. The shortcomings you cite in asserting that the Department and the SBEIS failed to comply with the Regula-

tory Fairness Act reflect amendments made subsequent to the adoption of the Rules, and therefore cannot be used as measures of adequacy.

The SBEIS includes several mitigation measures expressly designed to reduce the Rules' impacts on small businesses. Those measures go well beyond the statutory requirements in place at the time. In fact, it appears that they may go far enough to satisfy the amended statutes' requirements, had they been in place at the time.

2. *There is insufficient evidence in the rule-making file for a rational decision-maker to conclude that commercial applicators could be a source of ground water contamination by fertilizers or pesticides.*

Your appeal asserts that the Rules are not needed because there is no evidence of ground or surface water contamination caused by spills at commercial aerial applicator mixing/loading sites in Washington. You point out that no comparison was made between the *Environmental Contamination at Wisconsin Pesticide Mixing/Loading Facilities* case study in the rulemaking file and actual soil, groundwater, and climatic conditions in Washington.

While it does not appear that additional research was done to test the applicability of the Wisconsin case study to conditions in Washington, I am not convinced that such research was necessary. The rule-making file includes letters from the Department of Ecology citing problems of ground water contamination from pesticide and fertilizer spills in Washington.

Director Jesernig acted within his authority and as a rational decision-maker in adopting rules that would avert potential spills from reaching ground water. The Director had the authority to adopt the Rules under the Washington Commercial Fertilizer Act and the Washington Pesticide Control Act (RCW 15.54.800 and RCW 15.58.020, respectively), and I believe that he acted rationally on the evidence in the rule-making file.

3. *The rules could conflict with rules that may be adopted by the U.S. Environmental Protection Agency ("EPA").*

Four years have elapsed since the Department adopted the Rules, and the EPA has not yet initiated any rule-making on this subject. Given that representatives of federal agencies cannot speculate as to what rules might eventually be adopted, the Department did not act unreasonably by failing to coordinate with the EPA on the content of the Rules.

Moreover, virtually every statute implemented by the EPA, including the Clean Water Act, the Clean Air Act, the Resource Conservation and Recovery Act and the Federal Insecticide Fungicide and Rodenticide Act, expressly allows states to adopt more stringent standards than their federal counterparts. Thus, if the EPA eventually adopts regulations for pesticide and fertilizer containment, any stricter Washington regulations would not be preempted. The state would certainly have extensive opportunity in the EPA's rule adoption process to press for federal regulations that accommodate the Rules.

4. *The rules impose unreasonable costs on commercial aerial applicators.*

As you point out, the SBEIS notes that "a mix/load pad for a typical aerial applicator can range from \$20,000 and up." However, it should also be noted that the SBEIS cites several ways in which the Department sought to mitigate the Rules' impacts on small businesses. It should be noted that the Regulatory Fairness Act, both as in effect at the time the Rules were adopted and as amended, does not preclude agencies from adopting rules that impact small businesses.

Rather, it directs them to reduce the economic impact of rules on small businesses by structuring the rules to accommodate small businesses to the extent possible. The Department went well beyond what was minimally required of it by taking several specific steps to mitigate the small business impact of the Rules.

Conclusion:

One of my first orders as Governor was to direct all state agencies to undertake a thorough review and reform of their regulations, with the goal of streamlining and reducing the number and complexity of state regulations. I strongly believe that regulations should be as clear and easy to comply with as possible. The Department is in the process of reviewing its regulations, and plans to take a look at WAC 16-229-010 through 16-229-480 and WAC 16-201-010 through 16-201-290 next June. That review will be open to input from stakeholders, and I suggest that you remain in touch with the Department so that you may participate.

While I can see how the Rules may create burdens for small businesses, I believe that the Department acted properly under the law and made significant efforts to minimize those burdens. The arguments advanced in your appeal do not compel me to conclude that the Department should be directed to amend the Rules. Please direct any questions on this matter to my counsel, Everett Billingslea, at 360-753-6780.

Sincerely,

Gary Locke
Governor

Distribution: Secretary of State; Chief Clerk, House of Representatives; Agency; Citizen's Response Unit; and Executive Policy Office.

Legal Counsel
Office of the Governor
Leslie McGuire
for Everett Billingslea

WSR 98-15-104

**NOTICE OF PUBLIC MEETINGS
SECRETARY OF STATE**

[Memorandum—July 15, 1998]

The Office of the Secretary of State, under chapter 19.34 RCW, will hold a public hearing at 8:30 a.m. on Tuesday, July 21, 1998, at the John L. O'Brien Building (Capitol Campus), Hearing Room C, 504 15th Avenue, Olympia, to receive public testimony about the proposed changes and clarifications to chapter 434-180 WAC further defining the Washington Electronic Authentication Act. This hearing is an open public meeting under the applicable provisions of chapter 42.30 RCW. For additional information on the hearing process, please contact Hans Dettling at (360) 586-0393.

WSR 98-15-116

**NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE CENTER**

[Memorandum—July 17, 1998]

Pursuant to board action on July 15, 1998, the date of the board's August regular meeting has been changed from Wednesday, August 26, 1998, to Wednesday, August 5, 1998, at 1:30 p.m.

WSR 98-15-121

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH**

(Board of Hearing and Speech)

[Memorandum—July 17, 1998]

The Board of Hearing and Speech has rescheduled the following 1998 board meeting date as follows: August 21, 1998, has been cancelled.

If you have questions, please call (360) 586-8577.

WSR 98-15-128

DEPARTMENT OF ECOLOGY

[Filed July 21, 1998, 3:55 p.m.]

STATE OF WASHINGTON

NOTICE OF PUBLIC HEARING

Incorporating Revised WAC 173-400-110 New Source Review, into the State Implementation Plan

Chapter 173-400 WAC, General regulations for air pollution sources, contains sections on review of new industrial sources of air pollution. In January 1998, the Department of Ecology (ecology) revised WAC 173-400-110, Washington's principal rule for new source review. The revisions were adopted following a public hearing to receive comments on the changes. Ecology is now proposing to incorporate the revised regulation into the state implementation plan (SIP).

The SIP is [a] state-wide plan for meeting and maintaining federal air quality standards.

Ecology will hold a public hearing on Friday, August 21, 1998, at 2:00 p.m. to receive comments on incorporating the revised regulation into the SIP. The hearing will take place at the Department of Ecology Headquarters Building, Basement Room 36, 300 Desmond Drive, Lacey, WA. Comments must be submitted to Tom Todd at the Department of Ecology, Air Quality Program, P.O. Box 47600, Lacey, WA 98504-7600 by Friday, August 28, 1998, in order to be considered.

For more information, please contact Tom Todd, (360) 407-7528. For a copy of the regulation, contact Maxine Willis, (360) 407-6877.

If you have special accommodation needs, please call Tami Dahlgren, (360) 407-6830 (voice), or (360) 407-6006 (TDD only). Ecology is an equal opportunity and affirmative action employer.

WSR 98-15-137

AGENDA

DEPARTMENT OF FINANCIAL INSTITUTIONS

[Filed July 22, 1998, 9:35 a.m.]

Department of Financial Institutions Semi-Annual Agenda for Rules Under Development July 1, 1998 - December 31, 1998

DIVISION OF BANKS

1. Repeal of chapter 50-52 WAC, Washington Land Bank. The rules implemented chapter 31.30 RCW, which was repealed during the 1998 legislative session.

2. Amend various sections of chapter 50-36 WAC, Administration of trust companies, investments, etc. The purpose of the amendments is to bring the regulations in line with Regulation 9 of the federal regulations for competitive reasons.

DIVISION OF CONSUMER SERVICES

1. Amendments to chapter 208-660 WAC relating to mortgage brokers to reflect statutory changes to definitions, exemptions from licensing, branch office licensing requirements, records retention requirements, bonding requirements, and trust accounting requirements.

DIVISION OF CREDIT UNIONS

1. Consider rules to implement chapter 397, Laws of 1997. May affect the following rules: Chapters 208-418, 208-436, 208-440, 208-444, 208-464, 208-472, and 208-480 WAC. May involve adoption, amendment or repeal of various rules.

2. Review of all Division of Credit Unions rules in accordance with Executive Order No. 97-02. Affects the following rules: Chapters 208-418, 208-436, 208-440, 208-444, 208-464, 208-472, and 208-480 WAC. May involve adoption, amendment or repeal of various rules.

3. Revision to field of membership rules. Affects chapter 208-472 WAC. May involve adoption, amendment or repeal of various rules.

DIVISION OF SECURITIES

1. In accordance with the Division's Rules Review Plan adopted pursuant to Executive Order 97-02, the following WAC chapters are scheduled for review and possible action:

- Chapter 460-28A WAC, Advertisements.
- Chapter 460-52A WAC, Nonprofit organizations.
- Chapter 460-60A WAC, Financial statements and reports.
- Chapter 460-17A WAC, Small company offering registration.
- Chapter 460-46A WAC, Corporate limited offering exemption.

2. Chapter 460-10A WAC, Definitions and chapter 460-16A WAC, General rules are being revised in conjunction with the adoption of various NASAA Statements of Policy concerning equity offerings.

3. A new manual exemption is in the process of being adopted in chapter 460-44A WAC pursuant to the authority granted the Administrator in the recent amendments to the Securities Act.

4. A new chapter 460-18A WAC is being adopted to establish notice filing requirements for certain covered securities.

5. The small offering exemption, WAC 460-44A-504, may be amended pursuant to the authority granted the administrator in the recent amendments to the Securities Act. The SEC has proposed amending the corresponding federal exemption, and the division may wait until that process is completed before amending WAC 260-44A-504.

6. Chapter 460-32A WAC, Real estate programs, is being amended to incorporate by reference an SEC release.

7. The isolated transaction exemption, WAC 460-44A-050, is being amended to discuss issuer and nonissuer isolated transactions and nonpublic offerings.

8. New sections in the chapter on investment advisers (chapter 460-24A WAC) relating to agency cross transactions, disclosure of information to clients and amendment of the rule defining unethical practices of investment advisers (WAC 460-24A-220). These rules are proposed to be adopted or amended to make Washington's rules uniform with those of other states and to implement the 1998 legislative amendments to the Securities Act of Washington relating to investment advisers.

9. Additional rule-making activity may take place as time and circumstances dictate.

WSR 98-15-145

INTERPRETIVE STATEMENT DEPARTMENT OF REVENUE

[Filed July 22, 1998, 9:59 a.m.]

ADOPTION OF INTERPRETIVE STATEMENT Excise Tax Advisory 549-3s—Excise tax bulletins canceled 6/30/98 (Third supplement to ETA 549)

This announcement of the adoption of this interpretive statement is being published in the Washington State Register pursuant to the requirements of RCW 34.05.230(4).

The Department of Revenue has adopted the following Excise Tax Advisory:

Excise Tax Advisory 549-3s (Excise tax bulletins canceled 6/30/98). This advisory provides a list of excise tax bulletins that were canceled on June 30, 1998, along with a brief explanation of the reason for cancellation. This advisory is the third supplement to the second revision of ETA 549.

Requests for copies of this advisory may be directed to Roseanna Hodson, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 586-4281, fax (360) 664-0693.

Claire Hesselholt
Policy Counsel

WSR 98-15-147

**NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY**

[Memorandum—July 22, 1998]

Eastern Washington University
BOARD OF TRUSTEES
July 24, 1998, 9:00 a.m.
Cheney
Pence Union Building
Room 263-65

Breakfast, which is open to the public, will be served to board members prior to the meeting at 8:00 a.m. in the Pence Union Building, Room 261.

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling President's Office, 359-2371.

WSR 98-15-152

**PUGET SOUND
WATER QUALITY ACTION TEAM**

[Filed July 22, 1998, 10:43 a.m.]

The Puget Sound Water Quality Action Team will host community discussions on the health of Puget Sound and ask for comments on the proposed work plan to improve water quality, restore habitat and protect resources in the Sound during the next biennium. Children are welcome to attend with their parents.

The action team developed the proposed work plan and budget in consultation with federal, tribal, state and local agencies and organizations. The comment period on the proposed *1999-2001 Puget Sound Water Quality Work Plan* runs from July 27 - August 28, 1998.

In September 1998, the Puget Sound Council will consider public comments and recommend revisions to the action team. The action team will revise the work plan and budget and submit them to the legislature and Governor Locke in

December 1998. The 1999 legislature will consider the budget needed to implement the work plan.

To request a copy of the proposed work plan, please contact the action team at 1-800-54-SOUND or visit Puget Sound On-Line at http://www.wa.gov/puget_sound.

Briefings on the Health of Puget Sound and Opportunities to Comment (All meetings start at 7:00 p.m. and end no later than 9:00 p.m.)

Tuesday August 11, 1998 - Lacey
Department of Ecology
Room 1S-16
300 Desmond Drive
Lacey

Thursday August 13, 1998 - Seattle
North Seattle Community College
Room C3353
9600 College Way North
Seattle

Thursday August 13, 1998 - Sequim
Jamestown S'Klallam Community Center
1033 Old Blyn Highway
Blyn

Tuesday August 18, 1998 - Tacoma
Tacoma World Trade Center
Room 104
3600 Port of Tacoma Road
Tacoma

Tuesday August 18, 1998 - Poulsbo
City of Poulsbo Fire Station
911 N.E. Liberty Road
Poulsbo

Wednesday August 19, 1998 - Mt. Vernon
Skagit County PUD #1
1415 Freeway Drive
Mount Vernon

WSR 98-15-153

**NOTICE OF PUBLIC MEETINGS
OFFICE OF THE GOVERNOR**

(Clemency and Pardons Board)

[Memorandum—July 22, 1998]

The September 4 regular meeting of the Clemency and Pardons Board has been changed to September 11, in the John A. Cherberg Building, Hearing Room 4, Olympia, Washington, starting at 10:00 a.m.

WSR 98-15-156
DEPARTMENT OF ECOLOGY

[Filed July 22, 1998, 11:35 a.m.]

**Notice of New Review Process for
Waste-Derived and Micro-Nutrient Fertilizers**

Background and Summary of Issue

Beginning July 1, 1999, all requirements for registration and labeling of fertilizers under *The Fertilizer Regulation Act* (SSB 6474) will be fully implemented by the Departments of Agriculture and Ecology (WSDA and ecology, respectively).

On July 1, 1999, WSDA will begin routing all applications for waste-derived fertilizer¹ or micro-nutrient fertilizer² registration to the Department of Ecology for review. Ecology's hazardous waste and toxics reduction program will review applications to determine if the material passes dangerous waste criteria. Within sixty days of receiving the completed application, ecology shall advise WSDA as to whether the application complies with the requirements of RCW 15.54.800. Final decisions regarding registration and compliance will be made by WSDA.

This review will help ensure fertilizers meet the applicable requirements of federal hazardous waste (HW) and state dangerous waste (DW) regulations. When hazardous wastes are either used as fertilizers or to manufacture fertilizers, the HW and DW regulation requirements must be met. For example, fertilizers made from certain hazardous wastes must meet concentration-based standards, known as land disposal restrictions (LDR), prior to their use. Both the companies generating the HW and the fertilizer manufacturers share the responsibility of complying with these regulations.

Review Criteria

Product Screening Tests

Ecology's review criteria are based on the dangerous waste regulations, chapter 173-303 WAC. If a fertilizer product does not pass the tests described below the Department of Ecology will recommend that the product not be registered. However, the registrant may provide information to rebut the presumption that the dangerous waste regulations apply to the fertilizer product and the product is not in compliance with the regulations. Registrants of waste-derived or micro-nutrient fertilizer products will provide copies of:

- Land Disposal Restriction (LDR) Certification, as described in 40 CFR Part 268 **OR** Toxicity Characteristic Leaching Procedure (TCLP)³ **AND**
- Total Halogenated Organic Compounds (HOC)⁴ **AND**
- Total Polycyclic Aromatic Hydrocarbons (PAH)⁵.

Raw Materials Evaluation

If a fertilizer product fails any of the above tests, it will not be recommended for registration unless ecology determines: 1) The fertilizer product is **not subject** to the state DW regulations or 2) the product is **in compliance** with the state DW regulations. The applicant must provide the following information before the Department of Ecology may make this determination:

- A complete description of the fertilizer manufacturing process, including the location. A complete list of all ingredients used in manufacturing the fertil-

izer and a complete description of the sources⁶ of those ingredients, **AND**

- Evidence the waste(s) used in manufacturing the product do not designate as dangerous waste according to procedures described in WAC 173-303-070.⁷

If the product fails the Product Screening Tests, the company must provide and pass the above Raw Materials Evaluation for each waste used in the fertilizer product.

Staff Contacts

Department of Agriculture

Deborah Bahs

Tel: (360) 902-2080

Fax: (360) 902-2093

Department of Ecology

Dennis Bowhay

Tel: (509) 454-7866

Fax: (509) 575-2809

¹Means a commercial fertilizer that is derived in whole or in part from solid waste as defined in chapter 70.95 or 70.105 RCW, or rules adopted thereunder, but does not include fertilizers derived from biosolids or biosolids products regulated under chapter 70.95J RCW or wastewaters regulated under chapter 90.48 RCW.

²Means a produced or imported commercial fertilizer that contains commercially valuable concentrations of micronutrients but does not contain commercially valuable concentrations of nitrogen, phosphoric acid, available phosphorus, potash, calcium, magnesium, or sulfur. Micronutrients are boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, and zinc.

³Test method SW-846, Method 1311, is described in *Chemical Testing Methods for Designating Dangerous Waste*, Publication #97-407. The fertilizer must be analyzed for TCLP arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver. Maximum concentrations are described in WAC 173-303-090(8).

⁴HOC means any organic compound that includes at least one atom of either fluorine, chlorine, or iodine which is/are bonded directly to a carbon atom. Use the method(s) appropriate for the matrix being tested as described in *Chemical Testing Methods for Designating Dangerous Waste*, Publication #97-407. The fertilizer product may not contain more than 1% total HOC.

⁵PAH means the twenty compounds identified in WAC 173-303-040. Use the method(s) appropriate for the matrix being tested as described in *Chemical Testing Methods for Designating Dangerous Waste*, Publication #97-407. The fertilizer product may not contain more than 1% total PAH.

⁶Means the location and process that was the origin of the ingredient.

⁷Designation test results for each waste as described in WAC 173-303-070 (3)(c) must be submitted. "Process knowledge" as described in WAC 173-303 [173-303-070] (3)(c)(i) may not be substituted for test results.

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

No suffix means permanent action.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
1-21-010	AMD-XA	98-09-083	16-167-010	AMD-XA	98-04-076	16-228-155	PREP	98-07-003
1-21-010	AMD	98-14-048	16-167-010	AMD	98-09-048	16-228-155	AMD-P	98-10-069
1-21-020	AMD-XA	98-09-083	16-167-020	AMD-XA	98-04-076	16-228-155	AMD	98-15-026
1-21-020	AMD	98-14-048	16-167-020	AMD	98-09-048	16-316-474	PREP	98-06-093
4-25	AMD-C	98-05-020	16-167-030	AMD-XA	98-04-076	16-316-474	AMD-P	98-09-101
4-25	AMD-C	98-07-025	16-167-030	AMD	98-09-048	16-316-474	AMD	98-12-032
4-25-410	AMD	98-12-020	16-167-040	AMD-XA	98-04-076	16-316-525	PREP	98-06-093
4-25-520	AMD	98-12-021	16-167-040	AMD	98-09-048	16-316-525	AMD-P	98-09-101
4-25-540	AMD	98-12-022	16-167-050	AMD-XA	98-04-076	16-316-525	AMD	98-12-032
4-25-550	AMD	98-12-023	16-167-050	AMD	98-09-048	16-319-041	PREP	98-06-094
4-25-551	AMD	98-12-047	16-167-060	AMD-XA	98-04-076	16-319-041	AMD-P	98-09-100
4-25-620	AMD	98-12-048	16-167-060	AMD	98-09-048	16-319-041	AMD	98-12-031
4-25-622	AMD	98-12-049	16-168-010	AMD	98-03-089	16-325-005	NEW-XA	98-05-106
4-25-625	REP	98-12-056	16-168-020	AMD	98-03-089	16-325-005	NEW	98-09-071
4-25-626	NEW	98-12-055	16-168-030	AMD	98-03-089	16-325-010	NEW-XA	98-05-106
4-25-627	REP	98-12-056	16-168-040	AMD	98-03-089	16-325-010	NEW	98-09-071
4-25-631	AMD	98-12-050	16-168-050	AMD	98-03-089	16-325-015	NEW-XA	98-05-106
4-25-810	AMD	98-12-051	16-168-060	AMD	98-03-089	16-325-015	NEW	98-09-071
16-08-151	AMD-XA	98-04-082	16-168-070	AMD	98-03-089	16-325-020	NEW-XA	98-05-106
16-08-151	AMD	98-09-085	16-168-075	NEW	98-03-089	16-325-020	NEW	98-09-071
16-20	PREP	98-15-067	16-168-080	AMD	98-03-089	16-325-025	NEW-XA	98-05-106
16-21	PREP	98-15-067	16-168-090	AMD	98-03-089	16-325-025	NEW	98-09-071
16-22	PREP	98-15-067	16-168-100	AMD	98-03-089	16-333-200	REP-XR	98-07-108
16-23	PREP	98-15-067	16-200	PREP	98-12-039	16-333-200	REP	98-13-033
16-32-009	PREP	98-05-104	16-200-695	AMD-E	98-12-018	16-333-205	REP-XR	98-07-108
16-32-009	REP-P	98-09-104	16-200-695	AMD-E	98-13-013	16-333-205	REP	98-13-033
16-32-009	REP	98-14-036	16-200-705	AMD-E	98-12-018	16-333-210	REP-XR	98-07-108
16-32-011	AMD-P	98-09-104	16-200-705	AMD-E	98-13-013	16-333-210	REP	98-13-033
16-32-011	AMD	98-14-036	16-200-7061	NEW-E	98-12-018	16-333-215	REP-XR	98-07-108
16-46-010	REP-XR	98-08-080	16-200-7061	NEW-E	98-13-013	16-333-215	REP	98-13-033
16-46-010	REP	98-13-118	16-200-7062	NEW-E	98-12-018	16-333-220	REP-XR	98-07-108
16-86	PREP	98-08-022	16-200-7062	NEW-E	98-13-013	16-333-220	REP	98-13-033
16-86	PREP	98-11-010	16-200-7063	NEW-E	98-12-018	16-333-225	REP-XR	98-07-108
16-89	PREP	98-08-023	16-200-7063	NEW-E	98-13-013	16-333-225	REP	98-13-033
16-96-001	REP-P	98-15-157	16-200-7064	NEW-E	98-12-018	16-333-230	REP-XR	98-07-108
16-96-002	REP-P	98-15-157	16-200-7064	NEW-E	98-13-013	16-333-230	REP	98-13-033
16-96-003	REP-P	98-15-157	16-200-708	AMD-E	98-12-018	16-333-235	REP-XR	98-07-108
16-96-010	REP-P	98-15-157	16-200-708	AMD-E	98-13-013	16-333-235	REP	98-13-033
16-96-020	REP-P	98-15-157	16-212	PREP	98-11-024	16-333-240	REP-XR	98-07-108
16-96-030	REP-P	98-15-157	16-212-030	AMD-P	98-07-106	16-333-240	REP	98-13-033
16-102	PREP	98-04-075	16-212-030	AMD	98-12-058	16-333-245	REP-XR	98-07-108
16-129-010	REP-XR	98-08-020	16-212-060	AMD-P	98-07-106	16-333-245	REP	98-13-033
16-129-010	REP	98-13-029	16-212-060	AMD	98-12-058	16-334-010	NEW-XA	98-07-109
16-129-020	REP-XR	98-08-020	16-212-070	AMD-P	98-07-106	16-334-010	NEW	98-11-048
16-129-020	REP	98-13-029	16-212-070	AMD	98-12-058	16-334-020	NEW-XA	98-07-109
16-129-025	REP-XR	98-08-020	16-212-080	AMD-P	98-07-106	16-334-020	NEW	98-11-048
16-129-025	REP	98-13-029	16-212-080	AMD	98-12-058	16-334-030	NEW-XA	98-07-109
16-129-030	REP-XR	98-08-020	16-212-082	AMD-P	98-07-106	16-334-030	NEW	98-11-048
16-129-030	REP	98-13-029	16-212-082	AMD	98-12-058	16-334-040	NEW-XA	98-07-109

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16-334-050	NEW	98-11-048	16-532-0402	REP	98-13-122	16-620-015	REP-P	98-15-157
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16-334-080	NEW	98-11-048	16-532-0408	REP	98-13-122	16-620-150	REP-P	98-15-157
16-354-002	REP-P	98-06-082	16-532-0410	REP-P	98-02-073	16-620-205	REP-P	98-15-157
16-354-002	REP	98-09-049	16-532-0410	REP	98-13-122	16-620-210	REP-P	98-15-157
16-354-005	AMD-P	98-06-082	16-532-0412	REP-P	98-02-073	16-620-230	REP-P	98-15-157
16-354-005	AMD	98-09-049	16-532-0412	REP	98-13-122	16-620-240	REP-P	98-15-157
16-354-010	AMD-P	98-06-082	16-532-0414	REP-P	98-02-073	16-620-250	REP-P	98-15-157
16-354-010	AMD	98-09-049	16-532-0414	REP	98-13-122	16-620-260	REP-P	98-15-157
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16-354-020	AMD	98-09-049	16-557-010	AMD-P	98-12-017	16-620-280	REP-P	98-15-157
16-354-030	AMD-P	98-06-082	16-557-025	NEW-P	98-12-017	16-620-290	REP-P	98-15-157
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16-354-040	AMD	98-09-049	16-573-010	NEW	98-04-093	16-620-380	REP-P	98-15-157
16-354-050	AMD-P	98-06-082	16-573-020	NEW	98-04-093	16-620-390	REP-P	98-15-157
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16-354-070	AMD-P	98-06-082	16-573-040	NEW	98-04-093	16-620-410	REP-P	98-15-157
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16-354-100	AMD-P	98-06-082	16-573-050	NEW	98-04-093	16-657-040	AMD-P	98-10-120
16-354-100	AMD	98-09-049	16-573-060	NEW	98-04-093	16-657-040	AMD	98-13-074
16-400	AMD-P	98-07-032	16-573-070	NEW	98-04-093	16-659	PREP	98-07-067
16-400	AMD	98-10-083	16-573-080	NEW	98-04-093	16-659-001	REP-P	98-10-119
16-400-007	AMD-P	98-07-032	16-575	PREP	98-06-096	16-659-001	REP	98-13-073
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16-400-040	AMD-P	98-07-032	16-600-020	REP	98-13-030	16-659-002	NEW	98-13-073
16-400-040	AMD	98-10-083	16-604-001	REP-P	98-15-157	16-659-010	AMD-P	98-10-119
16-400-100	AMD-P	98-07-032	16-604-002	REP-P	98-15-157	16-659-010	AMD	98-13-073
16-400-100	AMD	98-10-083	16-604-003	REP-P	98-15-157	16-662	PREP	98-07-067
16-400-210	AMD-P	98-07-032	16-604-008	REP-P	98-15-157	16-662-105	AMD-P	98-10-118
16-400-210	AMD	98-10-083	16-604-010	REP-P	98-15-157	16-662-105	AMD	98-13-072
16-402-005	NEW-P	98-13-129	16-604-012	REP-P	98-15-157	16-662-115	AMD-P	98-10-118
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16-470-100	AMD	98-12-091	16-605A-010	REP-P	98-15-157	16-675-040	AMD	98-12-030
16-470-120	AMD-P	98-08-108	16-607-005	NEW-P	98-15-157	16-750	PREP	98-12-069
16-471	PREP	98-07-107	16-607-010	NEW-P	98-15-157	16-752	PREP	98-04-077
16-471-010	REP-P	98-10-115	16-607-015	NEW-P	98-15-157	16-752-610	AMD-P	98-08-109
16-471-010	REP-W	98-13-127	16-607-020	NEW-P	98-15-157	16-752-610	AMD	98-13-008
16-471-010	REP-P	98-13-128	16-607-025	NEW-P	98-15-157	24-12-010	AMD-P	98-13-121
16-471-015	REP-P	98-10-115	16-607-035	NEW-P	98-15-157	25-18-010	REP	98-05-027
16-471-015	REP-W	98-13-127	16-607-040	NEW-P	98-15-157	25-18-020	REP	98-05-027
16-471-015	REP-P	98-13-128	16-607-045	NEW-P	98-15-157	25-18-030	REP	98-05-027
16-471-020	REP-P	98-10-115	16-607-050	NEW-P	98-15-157	25-18-040	REP	98-05-027
16-471-020	REP-W	98-13-127	16-607-055	NEW-P	98-15-157	25-18-050	REP	98-05-027
16-471-020	REP-P	98-13-128	16-607-060	NEW-P	98-15-157	25-18-060	REP	98-05-027
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16-471-030	REP-W	98-13-127	16-607-070	NEW-P	98-15-157	25-18-080	REP	98-05-027
16-471-030	REP-P	98-13-128	16-607-075	NEW-P	98-15-157	25-18-090	REP	98-05-027
16-471-040	REP-P	98-10-115	16-607-080	NEW-P	98-15-157	25-18-100	REP	98-05-027
16-471-040	REP-W	98-13-127	16-607-085	NEW-P	98-15-157	25-18-110	REP	98-05-027
16-471-040	REP-P	98-13-128	16-607-090	NEW-P	98-15-157	25-18-120	REP	98-05-027
16-471-050	REP-P	98-10-115	16-607-095	NEW-P	98-15-157	25-18-130	REP	98-05-027
16-471-050	REP-W	98-13-127	16-607-100	NEW-P	98-15-157	25-36-010	REP	98-05-027
16-471-050	REP-P	98-13-128	16-607-105	NEW-P	98-15-157	25-36-020	REP	98-05-027
16-471-060	REP-P	98-10-115	16-607-110	NEW-P	98-15-157	25-36-030	REP	98-05-027
16-471-060	REP-W	98-13-127	16-607-115	NEW-P	98-15-157	25-36-040	REP	98-05-027
16-471-060	REP-P	98-13-128	16-607-120	NEW-P	98-15-157	25-36-050	REP	98-05-027
16-471-070	REP-P	98-10-115	16-607-125	NEW-P	98-15-157	25-36-060	REP	98-05-027
16-471-070	REP-W	98-13-127	16-607-130	NEW-P	98-15-157	25-36-070	REP	98-05-027
16-471-070	REP-P	98-13-128	16-607-135	NEW-P	98-15-157	25-36-080	REP	98-05-027
16-471-080	REP-P	98-10-115	16-607-140	NEW-P	98-15-157	25-36-090	REP	98-05-027
16-471-080	REP-W	98-13-127	16-607-145	NEW-P	98-15-157	25-36-100	REP	98-05-027
16-471-080	REP-P	98-13-128	16-608-001	REP-P	98-15-157	25-36-110	REP	98-05-027
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30-08-070	PREP	98-09-082	51-11-1454	AMD	98-03-003	51-30-0405	REP	98-02-054
30-12-150	PREP	98-09-082	51-11-1512	AMD	98-03-003	51-30-0500	REP	98-02-054
30-18-040	PREP	98-09-082	51-11-1530	AMD	98-03-003	51-30-0510	REP	98-02-054
30-22-070	PREP	98-09-082	51-11-1701	AMD	98-03-003	51-30-0600	REP	98-02-054
30-22-090	PREP	98-09-082	51-11-2005	AMD	98-03-003	51-30-0601	REP	98-02-054
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51-11	PREP	98-14-110	51-26-0310	REP	98-02-055	51-30-1019	REP	98-02-054
51-11-0101	AMD	98-03-003	51-26-0315	REP	98-02-055	51-30-1030	REP	98-02-054
51-11-0101	AMD-P	98-15-151	51-26-0400	REP	98-02-055	51-30-1100	REP	98-02-054
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51-11-0504	AMD	98-03-003	51-26-1007	REP	98-02-055	51-30-1107	REP	98-02-054
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51-11-0525	AMD	98-03-003	51-26-1020	REP	98-02-055	51-30-1109	REP	98-02-054
51-11-0527	AMD	98-03-003	51-26-1301	REP	98-02-055	51-30-1110	REP	98-02-054
51-11-0530	AMD	98-03-003	51-26-1800	REP	98-02-055	51-30-1111	REP	98-02-054
51-11-0541	AMD	98-03-003	51-26-1801	REP	98-02-055	51-30-1112	REP	98-02-054
51-11-0602	AMD	98-03-003	51-26-1802	REP	98-02-055	51-30-1113	REP	98-02-054
51-11-0606	REP	98-03-003	51-26-1803	REP	98-02-055	51-30-1114	REP	98-02-054
51-11-0607	REP	98-03-003	51-26-1804	REP	98-02-055	51-30-1120	REP	98-02-054
51-11-0608	REP	98-03-003	51-26-1810	REP	98-02-055	51-30-1121	REP	98-02-054
51-11-0625	AMD	98-03-003	51-26-1820	REP	98-02-055	51-30-1122	REP	98-02-054
51-11-0626	AMD	98-03-003	51-26-1830	REP	98-02-055	51-30-1123	REP	98-02-054
51-11-0627	AMD	98-03-003	51-26-1840	REP	98-02-055	51-30-1124	REP	98-02-054
51-11-0628	AMD	98-03-003	51-26-1845	REP	98-02-055	51-30-1125	REP	98-02-054
51-11-0629	AMD	98-03-003	51-26-2200	REP	98-02-055	51-30-1200	REP	98-02-054
51-11-0630	AMD	98-03-003	51-26-2300	REP	98-02-055	51-30-1203	REP	98-02-054
51-11-0701	AMD	98-03-003	51-26-2301	REP	98-02-055	51-30-1600	REP	98-02-054
51-11-0800	AMD	98-03-003	51-27-001	REP	98-02-055	51-30-1614	REP	98-02-054
51-11-1002	AMD	98-03-003	51-27-002	REP	98-02-055	51-30-1700	REP	98-02-054
51-11-1003	AMD	98-03-003	51-27-003	REP	98-02-055	51-30-1702	REP	98-02-054
51-11-1004	AMD	98-03-003	51-27-004	REP	98-02-055	51-30-1900	REP	98-02-054
51-11-1005	AMD	98-03-003	51-27-008	REP	98-02-055	51-30-1909	REP	98-02-054
51-11-1006	AMD	98-03-003	51-30-001	REP	98-02-054	51-30-2200	REP	98-02-054
51-11-1007	AMD	98-03-003	51-30-002	REP	98-02-054	51-30-2211	REP	98-02-054
51-11-1008	AMD	98-03-003	51-30-003	REP	98-02-054	51-30-2400	REP	98-02-054
51-11-1009	AMD	98-03-003	51-30-004	REP	98-02-054	51-30-2406	REP	98-02-054
51-11-1010	REP	98-03-003	51-30-005	REP	98-02-054	51-30-2900	REP	98-02-054
51-11-1120	AMD	98-03-003	51-30-007	REP	98-02-054	51-30-2902	REP	98-02-054
51-11-1130	AMD	98-03-003	51-30-008	REP	98-02-054	51-30-2903	REP	98-02-054
51-11-1132	AMD	98-03-003	51-30-009	REP	98-02-054	51-30-2904	REP	98-02-054
51-11-1133	AMD	98-03-003	51-30-0100	REP	98-02-054	51-30-2910	REP	98-02-054
51-11-1210	AMD	98-03-003	51-30-0104	REP	98-02-054	51-30-3102	REP	98-02-054
51-11-1310	AMD-W	98-05-064	51-30-0200	REP	98-02-054	51-30-31200	REP	98-02-054
51-11-1312	AMD	98-03-003	51-30-0204	REP	98-02-054	51-30-31201	REP	98-02-054
51-11-1322	AMD-W	98-05-064	51-30-0207	REP	98-02-054	51-30-31202	REP	98-02-054
51-11-1323	AMD	98-03-003	51-30-0217	REP	98-02-054	51-30-31203	REP	98-02-054
51-11-1331	AMD	98-03-003	51-30-0220	REP	98-02-054	51-30-31204	REP	98-02-054
51-11-1334	AMD	98-03-003	51-30-0300	REP	98-02-054	51-30-31205	REP	98-02-054
51-11-1411	AMD	98-03-003	51-30-0302	REP	98-02-054	51-30-31206	REP	98-02-054
51-11-1412	AMD	98-03-003	51-30-0304	REP	98-02-054	51-30-31207	REP	98-02-054
51-11-1414	AMD	98-03-003	51-30-0305	REP	98-02-054	51-30-31208	REP	98-02-054
51-11-1421	AMD	98-03-003	51-30-0307	REP	98-02-054	51-30-31209	REP	98-02-054
51-11-1422	AMD	98-03-003	51-30-0310	REP	98-02-054	51-30-31210	REP	98-02-054
51-11-1423	AMD	98-03-003	51-30-0313	REP	98-02-054	51-30-3400	REP	98-02-054

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
51-30-3404	REP	98-02-054	51-34-6312	REP	98-02-053	51-40-0405	NEW	98-02-054
51-30-93115	REP	98-02-054	51-34-6313	REP	98-02-053	51-40-0510	NEW	98-02-054
51-30-93116	REP	98-02-054	51-34-6314	REP	98-02-053	51-40-0804	NEW	98-02-054
51-30-93117	REP	98-02-054	51-34-6315	REP	98-02-053	51-40-0902	NEW	98-02-054
51-30-93118	REP	98-02-054	51-34-6316	REP	98-02-053	51-40-0904	NEW	98-02-054
51-30-93119	REP	98-02-054	51-34-6317	REP	98-02-053	51-40-1000	NEW	98-02-054
51-30-93120	REP	98-02-054	51-34-6318	REP	98-02-053	51-40-1002	NEW	98-02-054
51-32-001	REP	98-02-056	51-34-6319	REP	98-02-053	51-40-1003	NEW	98-02-054
51-32-002	REP	98-02-056	51-34-6320	REP	98-02-053	51-40-1004	NEW	98-02-054
51-32-003	REP	98-02-056	51-34-6321	REP	98-02-053	51-40-1007	NEW	98-02-054
51-32-004	REP	98-02-056	51-34-6322	REP	98-02-053	51-40-1091	NEW	98-02-054
51-32-005	REP	98-02-056	51-34-6323	REP	98-02-053	51-40-1100	NEW	98-02-054
51-32-007	REP	98-02-056	51-34-6324	REP	98-02-053	51-40-1101	NEW	98-02-054
51-32-008	REP	98-02-056	51-34-7800	REP	98-02-053	51-40-1102	NEW	98-02-054
51-32-0200	REP	98-02-056	51-34-7802	REP	98-02-053	51-40-1103	NEW	98-02-054
51-32-0223	REP	98-02-056	51-34-7900	REP	98-02-053	51-40-1104	NEW	98-02-054
51-32-0300	REP	98-02-056	51-34-7902	REP	98-02-053	51-40-1105	NEW	98-02-054
51-32-0327	REP	98-02-056	51-34-7904	REP	98-02-053	51-40-1106	NEW	98-02-054
51-32-0500	REP	98-02-056	51-34-8000	REP	98-02-053	51-40-1107	NEW	98-02-054
51-32-0504	REP	98-02-056	51-34-8001	REP	98-02-053	51-40-1108	NEW	98-02-054
51-32-0600	REP	98-02-056	51-34-8003	REP	98-02-053	51-40-1109	NEW	98-02-054
51-32-0601	REP	98-02-056	51-34-9100	REP	98-02-053	51-40-1110	NEW	98-02-054
51-32-0605	REP	98-02-056	51-34-9101	REP	98-02-053	51-40-1111	NEW	98-02-054
51-32-1100	REP	98-02-056	51-34-9102	REP	98-02-053	51-40-1112	NEW	98-02-054
51-32-1101	REP	98-02-056	51-34-9103	REP	98-02-053	51-40-1113	NEW	98-02-054
51-32-1102	REP	98-02-056	51-34-9104	REP	98-02-053	51-40-1114	NEW	98-02-054
51-32-1103	REP	98-02-056	51-34-9105	REP	98-02-053	51-40-1191	NEW	98-02-054
51-32-1104	REP	98-02-056	51-34-9106	REP	98-02-053	51-40-1192	NEW	98-02-054
51-32-1105	REP	98-02-056	51-34-9107	REP	98-02-053	51-40-1193	NEW	98-02-054
51-32-1106	REP	98-02-056	51-34-9108	REP	98-02-053	51-40-1194	NEW	98-02-054
51-32-1107	REP	98-02-056	51-35-001	REP	98-02-053	51-40-1195	NEW	98-02-054
51-32-1108	REP	98-02-056	51-35-002	REP	98-02-053	51-40-1196	NEW	98-02-054
51-32-1300	REP	98-02-056	51-35-003	REP	98-02-053	51-40-1203	NEW	98-02-054
51-32-1312	REP	98-02-056	51-35-007	REP	98-02-053	51-40-1506	NEW-W	98-05-065
51-32-1313	REP	98-02-056	51-35-008	REP	98-02-053	51-40-1616	NEW	98-02-054
51-34-001	REP	98-02-053	51-35-52000	REP	98-02-053	51-40-1702	NEW	98-02-054
51-34-002	REP	98-02-053	51-35-52400	REP	98-02-053	51-40-1909	NEW	98-02-054
51-34-003	REP	98-02-053	51-35-52440	REP	98-02-053	51-40-23110	NEW	98-02-054
51-34-007	REP	98-02-053	51-35-52441	REP	98-02-053	51-40-2406	NEW	98-02-054
51-34-008	REP	98-02-053	51-35-52442	REP	98-02-053	51-40-2900	NEW	98-02-054
51-34-0200	REP	98-02-053	51-35-52500	REP	98-02-053	51-40-2929	NEW	98-02-054
51-34-0206	REP	98-02-053	51-35-52510	REP	98-02-053	51-40-3004	NEW	98-02-054
51-34-0216	REP	98-02-053	51-35-52520	REP	98-02-053	51-40-3102	NEW	98-02-054
51-34-0219	REP	98-02-053	51-35-52530	REP	98-02-053	51-40-31200	NEW	98-02-054
51-34-0223	REP	98-02-053	51-35-52540	REP	98-02-053	51-40-3404	NEW	98-02-054
51-34-0900	REP	98-02-053	51-35-52550	REP	98-02-053	51-40-93115	NEW	98-02-054
51-34-0901	REP	98-02-053	51-35-52560	REP	98-02-053	51-40-93116	NEW	98-02-054
51-34-0902	REP	98-02-053	51-35-52570	REP	98-02-053	51-40-93117	NEW	98-02-054
51-34-1000	REP	98-02-053	51-35-52580	REP	98-02-053	51-40-93118	NEW	98-02-054
51-34-1003	REP	98-02-053	51-35-52590	REP	98-02-053	51-40-93119	NEW	98-02-054
51-34-1007	REP	98-02-053	51-35-52600	REP	98-02-053	51-40-93120	NEW	98-02-054
51-34-2500	REP	98-02-053	51-40	PREP	98-14-125	51-42-001	NEW	98-02-056
51-34-2501	REP	98-02-053	51-40-001	NEW	98-02-054	51-42-002	NEW	98-02-056
51-34-5200	REP	98-02-053	51-40-002	NEW	98-02-054	51-42-003	NEW	98-02-056
51-34-5201	REP	98-02-053	51-40-003	NEW	98-02-054	51-42-004	NEW	98-02-056
51-34-5204	REP	98-02-053	51-40-004	NEW	98-02-054	51-42-005	NEW	98-02-056
51-34-6100	REP	98-02-053	51-40-005	NEW	98-02-054	51-42-007	NEW	98-02-056
51-34-6103	REP	98-02-053	51-40-007	NEW	98-02-054	51-42-007	PREP	98-13-051
51-34-6104	REP	98-02-053	51-40-007	PREP	98-13-051	51-42-007	AMD-P	98-15-151
51-34-6105	REP	98-02-053	51-40-007	AMD-P	98-15-151	51-42-008	NEW	98-02-056
51-34-6106	REP	98-02-053	51-40-008	NEW	98-02-054	51-42-0200	NEW	98-02-056
51-34-6107	REP	98-02-053	51-40-009	NEW	98-02-054	51-42-0223	NEW	98-02-056
51-34-6301	REP	98-02-053	51-40-0200	NEW	98-02-054	51-42-0303	NEW	98-02-056
51-34-6302	REP	98-02-053	51-40-0302	NEW	98-02-054	51-42-0504	NEW	98-02-056
51-34-6303	REP	98-02-053	51-40-0303	NEW	98-02-054	51-42-0600	NEW	98-02-056
51-34-6304	REP	98-02-053	51-40-0304	NEW	98-02-054	51-42-0601	NEW	98-02-056
51-34-6305	REP	98-02-053	51-40-0305	NEW	98-02-054	51-42-0605	NEW	98-02-056
51-34-6306	REP	98-02-053	51-40-0307	NEW	98-02-054	51-42-0901	NEW	98-02-056
51-34-6307	REP	98-02-053	51-40-0308	NEW	98-02-054	51-42-1000	NEW	98-02-056
51-34-6308	REP	98-02-053	51-40-0310	NEW	98-02-054	51-42-1002	NEW	98-02-056
51-34-6309	REP	98-02-053	51-40-0311	NEW	98-02-054	51-42-1004	NEW	98-02-056
51-34-6310	REP	98-02-053	51-40-0313	NEW	98-02-054	51-42-1005	NEW	98-02-056
51-34-6311	REP	98-02-053	51-40-0403	NEW	98-02-054	51-42-1100	NEW	98-02-056

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
51-42-1101	NEW	98-02-056	51-46-0513	NEW	98-02-055	82-28-030	REP-XR	98-14-065
51-42-1102	NEW	98-02-056	51-46-0514	NEW	98-02-055	82-28-040	REP-XR	98-14-065
51-42-1103	NEW	98-02-056	51-46-0515	NEW	98-02-055	82-28-050	REP-XR	98-14-065
51-42-1104	NEW	98-02-056	51-46-0516	NEW	98-02-055	82-28-060	REP-XR	98-14-065
51-42-1105	NEW	98-02-056	51-46-0517	NEW	98-02-055	82-28-06001	REP-XR	98-14-065
51-42-1106	NEW	98-02-056	51-46-0518	NEW	98-02-055	82-28-070	REP-XR	98-14-065
51-42-1107	NEW	98-02-056	51-46-0519	NEW	98-02-055	82-28-080	REP-XR	98-14-065
51-42-1108	NEW	98-02-056	51-46-0520	NEW	98-02-055	82-28-090	REP-XR	98-14-065
51-42-1311	NEW	98-02-056	51-46-0521	NEW	98-02-055	82-28-100	REP-XR	98-14-065
51-42-1312	NEW	98-02-056	51-46-0522	NEW	98-02-055	82-28-110	REP-XR	98-14-065
51-42-1401	NEW	98-02-056	51-46-0523	NEW	98-02-055	82-28-120	REP-XR	98-14-065
51-44-001	NEW	98-02-053	51-46-0524	NEW	98-02-055	82-28-130	REP-XR	98-14-065
51-44-002	NEW	98-02-053	51-46-0525	NEW	98-02-055	82-28-135	REP-XR	98-14-065
51-44-003	NEW	98-02-053	51-46-0600	NEW	98-02-055	82-28-140	REP-XR	98-14-065
51-44-007	NEW	98-02-053	51-46-0603	NEW	98-02-055	82-28-150	REP-XR	98-14-065
51-44-007	PREP	98-13-051	51-46-0604	NEW	98-02-055	82-28-160	REP-XR	98-14-065
51-44-007	AMD-P	98-15-151	51-46-0608	NEW	98-02-055	82-28-170	REP-XR	98-14-065
51-44-008	NEW	98-02-053	51-46-0609	NEW	98-02-055	82-28-180	REP-XR	98-14-065
51-44-0103	NEW	98-02-053	51-46-0610	NEW	98-02-055	82-28-190	REP-XR	98-14-065
51-44-0200	NEW	98-02-053	51-46-0700	NEW	98-02-055	82-28-200	REP-XR	98-14-065
51-44-0900	NEW	98-02-053	51-46-0701	NEW	98-02-055	82-28-210	REP-XR	98-14-065
51-44-1003	NEW	98-02-053	51-46-0704	NEW	98-02-055	82-28-220	REP-XR	98-14-065
51-44-1007	NEW	98-02-053	51-46-0710	NEW	98-02-055	82-28-230	REP-XR	98-14-065
51-44-10210	NEW	98-02-053	51-46-0713	NEW	98-02-055	82-36-010	REP-XR	98-14-016
51-44-1109	NEW	98-02-053	51-46-0793	NEW	98-02-055	82-36-020	REP-XR	98-14-016
51-44-2500	NEW	98-02-053	51-46-0800	NEW	98-02-055	82-36-030	REP-XR	98-14-016
51-44-5200	NEW	98-02-053	51-46-0810	NEW	98-02-055	82-36-033	REP-XR	98-14-016
51-44-6100	NEW	98-02-053	51-46-0814	NEW	98-02-055	82-36-035	REP-XR	98-14-016
51-44-6300	NEW	98-02-053	51-46-0815	NEW	98-02-055	82-36-040	REP-XR	98-14-016
51-44-7404	NEW	98-02-053	51-46-0900	NEW	98-02-055	82-36-050	REP-XR	98-14-016
51-44-7802	NEW	98-02-053	51-46-0903	NEW	98-02-055	82-36-060	REP-XR	98-14-016
51-44-7900	NEW	98-02-053	51-46-1000	NEW	98-02-055	82-36-070	REP-XR	98-14-016
51-44-8000	NEW	98-02-053	51-46-1003	NEW	98-02-055	82-36-080	REP-XR	98-14-016
51-45-001	NEW	98-02-053	51-46-1012	NEW	98-02-055	82-36-090	REP-XR	98-14-016
51-45-002	NEW	98-02-053	51-46-1300	NEW	98-02-055	82-36-120	REP-XR	98-14-016
51-45-003	NEW	98-02-053	51-46-1301	NEW	98-02-055	82-36-130	REP-XR	98-14-016
51-45-007	NEW	98-02-053	51-46-1302	NEW	98-02-055	82-36-140	REP-XR	98-14-016
51-45-008	NEW	98-02-053	51-46-1303	NEW	98-02-055	82-36-150	REP-XR	98-14-016
51-45-80400	NEW	98-02-053	51-46-1304	NEW	98-02-055	82-40-010	REP-XR	98-14-017
51-46-001	NEW	98-02-055	51-46-1305	NEW	98-02-055	82-40-020	REP-XR	98-14-017
51-46-002	NEW	98-02-055	51-46-1400	NEW	98-02-055	82-40-030	REP-XR	98-14-017
51-46-003	NEW	98-02-055	51-46-1401	NEW	98-02-055	82-40-040	REP-XR	98-14-017
51-46-007	NEW	98-02-055	51-46-1491	NEW	98-02-055	82-40-050	REP-XR	98-14-017
51-46-007	PREP	98-13-051	51-46-97120	NEW	98-02-055	82-40-060	REP-XR	98-14-017
51-46-007	AMD-P	98-15-151	51-46-97121	NEW	98-02-055	82-40-070	REP-XR	98-14-017
51-46-008	NEW	98-02-055	51-46-97122	NEW	98-02-055	82-44-010	REP-XR	98-14-015
51-46-0100	NEW	98-02-055	51-46-97123	NEW	98-02-055	82-44-020	REP-XR	98-14-015
51-46-0101	NEW	98-02-055	51-46-97124	NEW	98-02-055	82-44-030	REP-XR	98-14-015
51-46-0102	NEW	98-02-055	51-46-97125	NEW	98-02-055	82-44-040	REP-XR	98-14-015
51-46-0103	NEW	98-02-055	51-46-97126	NEW	98-02-055	82-44-050	REP-XR	98-14-015
51-46-0200	NEW	98-02-055	51-46-97127	NEW	98-02-055	82-44-060	REP-XR	98-14-015
51-46-0205	NEW	98-02-055	51-46-97128	NEW	98-02-055	82-44-070	REP-XR	98-14-015
51-46-0215	NEW	98-02-055	51-46-97129	NEW	98-02-055	82-44-080	REP-XR	98-14-015
51-46-0218	NEW	98-02-055	51-47-001	NEW	98-02-055	82-44-090	REP-XR	98-14-015
51-46-0300	NEW	98-02-055	51-47-002	NEW	98-02-055	82-50-021	AMD-P	98-09-084
51-46-0301	NEW	98-02-055	51-47-003	NEW	98-02-055	82-50-021	AMD	98-14-079
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173-160-261	NEW	98-08-032	173-162-130	AMD-W	98-08-093	173-308-020	NEW	98-05-101
173-160-265	REP	98-08-032	173-162-140	AMD	98-08-031	173-308-030	NEW	98-05-101
173-160-271	NEW	98-08-032	173-162-165	NEW-W	98-08-093	173-308-040	NEW	98-05-101
173-160-275	REP	98-08-032	173-162-170	REP	98-08-031	173-308-050	NEW	98-05-101
173-160-281	NEW	98-08-032	173-162-190	AMD	98-08-031	173-308-060	NEW	98-05-101
173-160-285	REP	98-08-032	173-162-200	AMD	98-08-031	173-308-070	NEW	98-05-101
173-160-291	NEW	98-08-032	173-162-210	AMD	98-08-031	173-308-080	NEW	98-05-101
173-160-291	AMD-XA	98-14-075	173-202-020	AMD-XA	98-03-071	173-308-090	NEW	98-05-101
173-160-295	REP	98-08-032	173-202-020	AMD-S	98-04-021	173-308-100	NEW	98-05-101
173-160-301	NEW	98-08-032	173-202-020	AMD-W	98-04-069	173-308-110	NEW	98-05-101
173-160-305	REP	98-08-032	173-202-020	AMD	98-07-026	173-308-120	NEW	98-05-101
173-160-311	NEW	98-08-032	173-202-020	AMD-E	98-07-103	173-308-130	NEW	98-05-101
173-160-315	REP	98-08-032	173-202-020	AMD	98-08-058	173-308-140	NEW	98-05-101
173-160-321	NEW	98-08-032	173-202-020	AMD-E	98-13-083	173-308-150	NEW	98-05-101
173-160-325	REP	98-08-032	173-202-020	AMD-S	98-13-115	173-308-160	NEW	98-05-101
173-160-331	NEW	98-08-032	173-224-030	AMD	98-03-046	173-308-170	NEW	98-05-101
173-160-335	REP	98-08-032	173-224-040	AMD	98-03-046	173-308-180	NEW	98-05-101
173-160-341	NEW	98-08-032	173-224-050	AMD	98-03-046	173-308-190	NEW	98-05-101
173-160-345	REP	98-08-032	173-303-017	AMD	98-03-018	173-308-200	NEW	98-05-101
173-160-351	NEW	98-08-032	173-303-040	AMD	98-03-018	173-308-210	NEW	98-05-101
173-160-355	REP	98-08-032	173-303-045	AMD	98-03-018	173-308-220	NEW	98-05-101
173-160-361	NEW	98-08-032	173-303-070	AMD	98-03-018	173-308-230	NEW	98-05-101
173-160-365	REP	98-08-032	173-303-071	AMD	98-03-018	173-308-240	NEW	98-05-101
173-160-371	NEW	98-08-032	173-303-073	AMD	98-03-018	173-308-250	NEW	98-05-101
173-160-375	REP	98-08-032	173-303-077	AMD	98-03-018	173-308-260	NEW	98-05-101
173-160-381	NEW	98-08-032	173-303-081	AMD	98-03-018	173-308-270	NEW	98-05-101
173-160-385	REP	98-08-032	173-303-082	AMD	98-03-018	173-308-275	NEW	98-05-101
173-160-390	NEW	98-08-032	173-303-090	AMD	98-03-018	173-308-280	NEW	98-05-101
173-160-395	REP	98-08-032	173-303-100	AMD	98-03-018	173-308-290	NEW	98-05-101
173-160-400	NEW	98-08-032	173-303-104	AMD	98-03-018	173-308-295	NEW	98-05-101
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173-160-406	NEW	98-08-032	173-303-120	AMD	98-03-018	173-308-310	NEW	98-05-101
173-160-410	NEW	98-08-032	173-303-140	AMD	98-03-018	173-308-320	NEW	98-05-101
173-160-415	REP	98-08-032	173-303-145	AMD	98-03-018	173-308-900	NEW	98-05-101
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173-160-440	NEW	98-08-032	173-303-280	AMD	98-03-018	173-400-070	AMD-XA	98-10-034
173-160-445	REP	98-08-032	173-303-282	AMD	98-03-018	173-400-070	AMD	98-15-129
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173-160-460	NEW	98-08-032	173-303-350	AMD	98-03-018	173-400-105	AMD-XA	98-10-034
173-160-460	AMD-XA	98-14-075	173-303-380	AMD	98-03-018	173-400-105	AMD	98-15-129
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173-160-510	REP	98-08-032	173-303-520	AMD	98-03-018	173-415	PREP	98-10-090
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173-160-990	AMD-XA	98-14-075	173-303-665	AMD	98-03-018	173-460-060	AMD	98-04-062
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173-162-060	AMD	98-08-031	173-303-815	AMD	98-03-018	173-806-030	AMD-P	98-12-092
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173-806-100	AMD-P	98-12-092	180-29-030	REP-P	98-14-147	180-30-510	REP-P	98-14-148
173-806-128	AMD-P	98-12-092	180-29-035	AMD-P	98-14-147	180-30-515	REP-P	98-14-148
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180-27-015	AMD-P	98-14-149	180-30-205	REP-P	98-14-148	180-30-845	REP-P	98-14-148
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180-27-045	AMD-P	98-14-149	180-30-230	REP-P	98-14-148	180-31-035	AMD-P	98-14-150
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180-27-060	AMD-P	98-14-149	180-30-380	REP-P	98-14-148	180-32-035	AMD-P	98-14-151
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180-27-083	NEW-P	98-14-149	180-30-408	REP-P	98-14-148	180-33-005	AMD-P	98-14-144
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180-27-420	AMD-P	98-14-149	180-30-440	REP-P	98-14-148	180-34-020	REP	98-05-002
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180-58-040	REP	98-05-006	192-12-040	AMD-P	98-09-105	194-10-120	REP	98-05-027
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180-59-020	REP	98-05-007	192-16-052	PREP	98-08-072	196-08-010	REP	98-12-045
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180-59-065	REP	98-05-007	192-18-040	REP	98-14-031	196-08-090	REP	98-12-045
180-59-070	REP	98-05-007	192-18-050	REP-XR	98-07-023	196-08-100	REP-P	98-08-078
180-59-075	REP	98-05-007	192-18-050	REP	98-14-031	196-08-100	REP	98-12-045
180-59-080	REP	98-05-007	192-18-060	REP-XR	98-07-023	196-08-110	REP-P	98-08-078
180-59-090	REP	98-05-007	192-18-060	REP	98-14-031	196-08-110	REP	98-12-045
180-59-095	REP	98-05-007	192-18-070	REP-XR	98-07-023	196-08-120	REP-P	98-08-078
180-59-100	REP	98-05-007	192-18-070	REP	98-14-031	196-08-120	REP	98-12-045
180-59-105	REP	98-05-007	192-20-010	REP-XR	98-07-024	196-08-130	REP-P	98-08-078
180-59-110	REP	98-05-007	192-20-010	REP	98-14-032	196-08-130	REP	98-12-045
180-59-115	REP	98-05-007	192-23-018	AMD	98-06-097	196-08-140	REP-P	98-08-078
180-59-120	REP	98-05-007	192-32	AMD	98-05-042	196-08-140	REP	98-12-045
180-59-125	REP	98-05-007	192-32-001	REP	98-05-042	196-08-150	REP-P	98-08-078
180-59-130	REP	98-05-007	192-32-010	AMD	98-05-042	196-08-150	REP	98-12-045
180-59-135	REP	98-05-007	192-32-015	REP	98-05-042	196-08-160	REP-P	98-08-078
180-59-140	REP	98-05-007	192-32-025	REP	98-05-042	196-08-160	REP	98-12-045
180-59-145	REP	98-05-007	192-32-035	AMD	98-05-042	196-08-170	REP-P	98-08-078
180-59-150	REP	98-05-007	192-32-045	AMD	98-05-042	196-08-170	REP	98-12-045
180-59-155	REP	98-05-007	192-32-050	AMD	98-05-042	196-08-180	REP-P	98-08-078
180-59-160	REP	98-05-007	192-32-055	AMD	98-05-042	196-08-180	REP	98-12-045
180-59-165	REP	98-05-007	192-32-065	AMD	98-05-042	196-08-190	REP-P	98-08-078
180-78A	PREP	98-06-030	192-32-075	AMD	98-05-042	196-08-190	REP	98-12-045
180-78A-165	AMD	98-05-022	192-32-085	AMD	98-05-042	196-08-200	REP-P	98-08-078
180-79A-117	AMD	98-05-024	192-32-095	AMD	98-05-042	196-08-200	REP	98-12-045
180-79A-220	AMD-P	98-04-089	192-32-100	NEW	98-05-042	196-08-210	REP-P	98-08-078
180-79A-220	AMD	98-08-068	192-32-105	AMD	98-05-042	196-08-210	REP	98-12-045
180-79A-340	AMD	98-05-023	192-32-115	AMD	98-05-042	196-08-220	REP-P	98-08-078
180-79A-420	PREP	98-04-087	192-32-120	REP	98-05-042	196-08-220	REP	98-12-045
180-79A-420	AMD-P	98-10-102	192-32-125	REP	98-05-042	196-08-230	REP-P	98-08-078
180-79A-420	AMD	98-15-027	192-32-130	NEW	98-05-042	196-08-230	REP	98-12-045
180-79A-422	PREP	98-04-087	192-32-135	NEW	98-05-042	196-08-240	REP-P	98-08-078
180-79A-422	AMD-P	98-10-102	192-33-005	NEW	98-05-042	196-08-240	REP	98-12-045
180-79A-422	AMD	98-15-027	192-33-006	NEW	98-05-042	196-08-250	REP-P	98-08-078
180-79A-433	AMD-P	98-10-103	192-33-050	NEW	98-14-068	196-08-250	REP	98-12-045
180-79A-433	AMD	98-15-028	192-210-005	NEW-E	98-13-015	196-08-260	REP-P	98-08-078
180-85-100	AMD	98-05-024	192-210-010	NEW-E	98-13-015	196-08-260	REP	98-12-045
180-87	PREP	98-08-038	192-210-015	NEW-E	98-13-015	196-08-270	REP-P	98-08-078
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182-25-010	AMD	98-07-002	192-310-025	NEW	98-14-068	196-08-280	REP	98-12-045
182-25-010	AMD-XA	98-10-086	192-310-030	NEW	98-14-068	196-08-290	REP-P	98-08-078
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196-08-340	REP-P	98-08-078	196-24-040	REP	98-12-052	212-17-210	REP-E	98-13-039
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196-08-350	REP	98-12-045	196-24-105	AMD-P	98-08-105	212-17-215	REP-E	98-13-039
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196-08-360	REP	98-12-045	196-25-001	NEW-P	98-08-106	212-17-21505	NEW	98-04-007
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196-08-380	REP-P	98-08-078	196-25-002	NEW	98-12-053	212-17-21511	NEW	98-04-007
196-08-380	REP	98-12-045	196-25-005	NEW-P	98-08-106	212-17-21513	NEW	98-04-007
196-08-390	REP-P	98-08-078	196-25-005	NEW	98-12-053	212-17-21515	NEW	98-04-007
196-08-390	REP	98-12-045	196-25-010	NEW-P	98-08-106	212-17-21517	NEW	98-04-007
196-08-400	REP-P	98-08-078	196-25-010	NEW	98-12-053	212-17-21519	NEW	98-04-007
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196-08-410	REP-P	98-08-078	196-25-020	NEW	98-12-053	220-12-020	AMD	98-06-031
196-08-410	REP	98-12-045	196-25-030	NEW-P	98-08-106	220-16-002	NEW-P	98-11-086
196-08-420	REP-P	98-08-078	196-25-030	NEW	98-12-053	220-16-002	NEW	98-15-081
196-08-420	REP	98-12-045	196-25-040	NEW-P	98-08-106	220-16-005	NEW-P	98-11-086
196-08-430	REP-P	98-08-078	196-25-040	NEW	98-12-053	220-16-005	NEW	98-15-081
196-08-430	REP	98-12-045	196-26-020	AMD-P	98-09-051	220-16-440	AMD	98-06-031
196-08-440	REP-P	98-08-078	196-26-020	AMD	98-12-046	220-16-475	NEW	98-06-031
196-08-440	REP	98-12-045	196-26-030	AMD-P	98-09-051	220-16-480	NEW-P	98-09-089
196-08-450	REP-P	98-08-078	196-26-030	AMD	98-12-046	220-16-480	NEW-W	98-11-049
196-08-450	REP	98-12-045	197-11-680	AMD	98-06-092	220-16-480	NEW	98-15-031
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196-08-460	REP	98-12-045	204-10-020	PREP	98-11-036	220-16-490	NEW-W	98-11-049
196-08-470	REP-P	98-08-078	204-10-020	AMD-P	98-15-083	220-16-490	NEW	98-15-031
196-08-470	REP	98-12-045	204-10-070	AMD	98-04-053	220-16-500	NEW-W	98-11-049
196-08-480	REP-P	98-08-078	204-10-090	AMD	98-04-053	220-16-510	NEW-W	98-11-049
196-08-480	REP	98-12-045	204-10-100	REP	98-04-053	220-16-520	NEW-W	98-11-049
196-08-490	REP-P	98-08-078	204-10-110	REP	98-04-053	220-16-530	NEW-W	98-11-049
196-08-490	REP	98-12-045	204-10-130	REP	98-04-053	220-16-540	NEW-W	98-11-049
196-08-500	REP-P	98-08-078	204-10-140	REP	98-04-053	220-16-550	NEW	98-06-031
196-08-500	REP	98-12-045	204-10-150	REP	98-04-053	220-16-550	AMD-P	98-11-086
196-08-510	REP-P	98-08-078	204-24-050	PREP	98-11-035	220-16-550	AMD	98-15-081
196-08-510	REP	98-12-045	204-24-050	AMD-P	98-15-056	220-16-560	NEW-W	98-11-049
196-08-520	REP-P	98-08-078	204-46-010	PREP	98-14-049	220-16-570	NEW-W	98-11-049
196-08-520	REP	98-12-045	204-46-020	PREP	98-14-049	220-16-580	NEW-W	98-11-049
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196-08-530	REP	98-12-045	204-72-030	AMD	98-04-054	220-16-600	NEW-W	98-11-049
196-08-540	REP-P	98-08-078	204-72-040	AMD	98-04-054	220-16-610	NEW	98-06-031
196-08-540	REP	98-12-045	204-90-030	AMD	98-04-052	220-16-620	NEW-W	98-11-049
196-08-550	REP-P	98-08-078	204-90-040	AMD	98-04-052	220-16-630	NEW-W	98-11-049
196-08-550	REP	98-12-045	204-90-070	AMD	98-04-052	220-16-640	NEW-W	98-11-049
196-08-560	REP-P	98-08-078	204-90-120	AMD	98-04-052	220-16-650	NEW-W	98-11-049
196-08-560	REP	98-12-045	204-90-140	AMD	98-04-052	220-16-660	NEW-W	98-11-049
196-08-570	REP-P	98-08-078	208-418	PREP	98-13-084	220-16-670	NEW-W	98-11-049
196-08-570	REP	98-12-045	208-436	PREP	98-13-084	220-16-680	NEW-W	98-11-049
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246-922-290	AMD	98-05-060	246-976-780	AMD-XA	98-14-121	250-55-200	REP	98-08-009
246-922-295	AMD	98-05-060	246-976-790	AMD	98-04-038	250-55-210	REP	98-08-009
246-922-300	AMD	98-05-060	246-976-810	AMD	98-04-038	250-55-220	REP	98-08-009
246-922-320	REP	98-05-060	246-976-810	AMD-XA	98-14-121	250-61-060	AMD-XA	98-08-001
246-922-990	AMD	98-05-060	246-976-820	AMD	98-04-038	250-61-090	AMD-XA	98-08-002
246-922-995	NEW	98-05-060	246-976-820	AMD-XA	98-14-121	250-61-150	REP	98-08-005
246-924-110	AMD	98-05-060	246-976-822	NEW	98-04-038	250-71-050	AMD	98-08-003
246-924-120	REP	98-05-060	246-976-830	AMD	98-04-038	250-72-015	AMD-E	98-14-008
246-924-230	AMD	98-05-060	246-976-840	AMD	98-04-038	250-72-020	AMD-E	98-14-008
246-924-290	REP	98-05-060	246-976-850	AMD	98-04-038	250-72-025	AMD-E	98-14-008
246-924-320	REP	98-05-060	246-976-860	AMD	98-04-038	250-72-030	REP-E	98-14-008
246-924-490	REP	98-05-060	246-976-860	AMD-XA	98-14-121	250-72-035	AMD-E	98-14-008
246-924-500	AMD	98-05-060	246-976-870	NEW	98-04-038	250-72-040	AMD-E	98-14-008
246-924-990	AMD	98-05-060	246-976-880	REP	98-04-038	250-72-045	AMD-E	98-14-008
246-926-160	REP	98-05-060	246-976-881	NEW	98-04-038	250-73-015	AMD-E	98-14-007
246-926-170	AMD	98-05-060	246-976-885	AMD	98-04-038	250-73-020	AMD-E	98-14-007
246-926-200	AMD	98-05-060	246-976-890	AMD	98-04-038	250-73-025	AMD-E	98-14-007
246-926-990	AMD	98-05-060	246-976-935	NEW	98-05-035	250-73-030	REP-E	98-14-007
246-926-995	NEW-W	98-05-059	250-10-010	REP	98-08-006	250-73-035	AMD-E	98-14-007
246-928	PREP	98-08-114	250-10-020	REP	98-08-006	250-73-040	AMD-E	98-14-007
246-928-090	REP	98-05-060	250-10-022	REP	98-08-006	250-73-045	AMD-E	98-14-007
246-928-190	AMD	98-05-060	250-10-026	REP	98-08-006	251-01-018	NEW-P	98-15-036
246-928-990	AMD	98-05-060	250-10-028	REP	98-08-006	251-01-030	AMD-P	98-15-036
246-930-020	AMD	98-05-060	250-10-030	REP	98-08-006	251-01-045	AMD-P	98-15-036
246-930-400	REP	98-05-060	250-10-040	REP	98-08-006	251-01-110	AMD-P	98-15-036
246-930-410	AMD	98-05-060	250-10-040	REP	98-08-006	251-01-150	AMD-P	98-15-036
246-930-420	AMD	98-05-060	250-10-050	REP	98-08-006	251-01-160	AMD-P	98-15-036
246-930-430	REP	98-05-060	250-10-060	REP	98-08-006	251-01-201	NEW-P	98-15-036
246-930-431	NEW	98-05-060	250-10-070	REP	98-08-006	251-01-205	REP-P	98-15-036
246-930-990	AMD	98-05-060	250-10-080	REP	98-08-006	251-01-305	AMD-P	98-15-036
246-930-995	NEW	98-05-060	250-10-090	REP	98-08-006	251-01-365	AMD-P	98-15-036
246-933-180	REP	98-05-060	250-10-100	REP	98-08-006	251-01-410	AMD-P	98-15-036
246-933-305	AMD	98-05-060	250-10-110	REP	98-08-006	251-04-030	AMD-P	98-15-036
246-933-320	AMD	98-05-060	250-10-120	REP	98-08-006	251-04-040	AMD-P	98-15-036
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246-933-430	REP	98-05-060	250-10-140	REP	98-08-006	251-04-060	AMD-P	98-15-036
246-933-470	REP	98-05-060	250-10-150	REP	98-08-006	251-04-070	AMD-P	98-15-036
246-933-480	AMD	98-05-060	250-10-160	REP	98-08-006	251-04-150	REP-P	98-15-036
246-933-990	AMD	98-05-060	250-10-170	REP	98-08-006	251-04-160	AMD-P	98-15-036
246-935-130	AMD	98-05-060	250-12-010	REP	98-08-008	251-04-170	NEW-C	98-06-014
246-935-990	AMD	98-05-060	250-12-020	REP	98-08-008	251-04-170	NEW	98-08-024
246-937-050	AMD	98-05-060	250-12-030	REP	98-08-008	251-04-170	AMD-P	98-15-036
246-937-080	AMD	98-05-060	250-12-040	REP	98-08-008	251-05-010	AMD-P	98-15-036
246-937-990	AMD	98-05-060	250-12-050	REP	98-08-008	251-05-030	AMD-P	98-15-036
246-976-470	REP	98-04-038	250-12-060	REP	98-08-008	251-05-040	AMD-P	98-15-036
246-976-475	REP	98-04-038	250-12-070	REP	98-08-008	251-05-060	AMD-P	98-15-036
246-976-480	REP	98-04-038	250-16-001	REP	98-08-007	251-05-070	AMD-P	98-15-036
246-976-485	NEW	98-04-038	250-16-010	REP	98-08-007	251-06-020	AMD-P	98-15-036
246-976-490	NEW	98-04-038	250-16-020	REP	98-08-007	251-06-070	AMD-P	98-15-036
246-976-500	AMD	98-04-038	250-16-030	REP	98-08-007	251-06-090	AMD-P	98-15-036
246-976-510	AMD	98-04-038	250-16-040	REP	98-08-007	251-07-100	AMD-P	98-15-036
246-976-520	AMD	98-04-038	250-16-050	REP	98-08-007	251-08-021	AMD-P	98-15-036
246-976-550	AMD	98-04-038	250-16-060	REP	98-08-007	251-08-040	REP-P	98-15-036
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246-976-570	AMD	98-04-038	250-55-010	REP	98-08-009	251-08-100	AMD-P	98-15-036
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251-11-030	AMD-P	98-15-036	255-01-080	NEW	98-07-071	275-46-010	AMD-P	98-14-061
251-11-050	AMD-P	98-15-036	255-01-090	NEW-P	98-04-060	275-46-015	NEW-P	98-14-061
251-11-090	AMD-P	98-15-036	255-01-090	NEW	98-07-071	275-46-020	PREP	98-10-125
251-11-120	AMD-P	98-15-036	255-01-100	NEW-P	98-04-060	275-46-020	AMD-P	98-14-061
251-11-130	AMD-P	98-15-036	255-01-100	NEW	98-07-071	275-46-030	AMD-P	98-14-061
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251-12-076	AMD-P	98-15-036	255-01-120	NEW-P	98-04-060	275-46-060	PREP	98-10-125
251-12-080	AMD-P	98-15-036	255-01-120	NEW	98-07-071	275-46-060	AMD-P	98-14-061
251-12-085	REP-P	98-15-036	255-01-130	NEW-P	98-04-060	275-46-065	NEW-P	98-14-061
251-12-096	REP-P	98-15-036	255-01-130	NEW	98-07-071	275-46-070	PREP	98-10-125
251-12-097	REP-P	98-15-036	255-01-140	NEW-P	98-04-060	275-46-070	AMD-P	98-14-061
251-12-099	AMD-P	98-15-036	255-01-140	NEW	98-07-071	275-46-080	NEW-P	98-14-061
251-12-100	AMD-P	98-15-036	255-02-010	NEW-P	98-04-059	275-46-090	NEW-P	98-14-061
251-12-104	AMD-P	98-15-036	255-02-010	NEW	98-11-005	275-46-100	NEW-P	98-14-061
251-12-105	AMD-P	98-15-036	255-02-020	NEW-P	98-04-059	275-59	PREP	98-10-105
251-12-220	AMD-P	98-15-036	255-02-020	NEW	98-11-005	284-01-050	NEW	98-04-063
251-12-230	AMD-P	98-15-036	255-02-030	NEW-P	98-04-059	284-05-040	AMD-XA	98-07-105
251-12-232	AMD-P	98-15-036	255-02-030	NEW	98-11-005	284-05-040	AMD	98-11-089
251-12-260	AMD-P	98-15-036	255-02-040	NEW-P	98-04-059	284-05-060	AMD-XA	98-07-105
251-12-290	REP-P	98-15-036	255-02-040	NEW	98-11-005	284-05-060	AMD	98-11-089
251-12-300	REP-P	98-15-036	255-02-050	NEW-P	98-04-059	284-05-070	REP-XA	98-07-105
251-12-500	AMD-P	98-15-036	255-02-050	NEW	98-11-005	284-05-070	REP	98-11-089
251-12-600	AMD-P	98-15-036	255-02-060	NEW-P	98-04-059	284-10	REP-C	98-03-004
251-14-052	AMD-P	98-15-036	255-02-060	NEW	98-11-005	284-10-010	REP	98-04-005
251-14-060	AMD-P	98-15-036	255-02-070	NEW-P	98-04-059	284-10-015	REP	98-04-005
251-14-070	AMD-P	98-15-036	255-02-070	NEW	98-11-005	284-10-020	REP	98-04-005
251-14-082	AMD-P	98-15-036	255-02-080	NEW-P	98-04-059	284-10-030	REP	98-04-005
251-14-085	AMD-P	98-15-036	255-02-080	NEW	98-11-005	284-10-050	REP	98-04-005
251-14-087	AMD-P	98-15-036	255-02-090	NEW-P	98-04-059	284-10-060	REP	98-04-005
251-14-130	AMD-P	98-15-036	255-02-090	NEW	98-11-005	284-10-070	REP	98-04-005
251-17-120	AMD-P	98-15-036	255-02-100	NEW-P	98-04-059	284-10-090	REP	98-04-005
251-19-060	AMD-P	98-15-036	255-02-100	NEW	98-11-005	284-10-140	REP	98-04-005
251-19-100	AMD-C	98-06-015	255-02-110	NEW-P	98-04-059	284-17-135	REP	98-06-022
251-19-100	AMD	98-08-026	255-02-110	NEW	98-11-005	284-17-220	AMD-XA	98-07-104
251-19-105	AMD-C	98-06-013	260-24-560	PREP	98-10-110	284-17-220	AMD	98-11-090
251-19-105	AMD	98-08-025	260-32-180	AMD	98-07-070	284-17-300	REP-XA	98-04-084
251-19-110	AMD-P	98-15-036	260-32-360	REP	98-07-070	284-17-300	REP	98-09-041
251-19-120	AMD-P	98-15-036	263-12-010	PREP	98-15-135	284-17-570	REP-XA	98-07-065
251-19-122	AMD-P	98-15-036	263-12-015	PREP	98-15-136	284-17-570	REP	98-11-088
251-19-140	AMD-P	98-15-036	263-12-01501	PREP	98-15-134	284-19-010	AMD-XA	98-08-097
251-19-154	NEW-P	98-09-067	263-12-020	PREP	98-15-132	284-19-010	AMD	98-13-095
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251-19-157	AMD-P	98-15-036	263-12-180	PREP	98-15-133	284-19-020	AMD	98-13-095
251-20-010	AMD-P	98-15-036	275-25	PREP	98-09-092	284-19-030	REP-XA	98-08-097
251-22-040	AMD-P	98-15-036	275-26	PREP	98-09-092	284-19-030	REP	98-13-095
251-22-060	AMD-P	98-15-036	275-27	PREP	98-09-092	284-19-040	AMD-XA	98-08-097
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251-22-127	NEW-E	98-13-056	275-27-020	AMD-E	98-13-041	284-19-050	AMD-XA	98-08-097
251-22-127	NEW	98-13-057	275-27-023	AMD-E	98-13-041	284-19-050	AMD	98-13-095
251-22-165	AMD-P	98-15-036	275-27-030	PREP	98-09-094	284-19-060	AMD-XA	98-08-097
251-23-010	AMD-P	98-15-036	275-27-040	AMD-E	98-13-041	284-19-060	AMD	98-13-095
251-23-020	AMD-P	98-15-036	275-27-050	AMD-E	98-13-041	284-19-070	AMD-XA	98-08-097
251-23-030	AMD-P	98-15-036	275-27-180	PREP	98-10-040	284-19-070	AMD	98-13-095
251-24-010	AMD-P	98-15-036	275-27-182	PREP	98-10-040	284-19-080	AMD-XA	98-08-097
251-24-030	AMD-P	98-15-036	275-27-185	PREP	98-10-040	284-19-080	AMD	98-13-095
251-24-040	AMD-P	98-15-036	275-27-190	PREP	98-10-040	284-19-090	AMD-XA	98-08-097
251-25-050	AMD-P	98-15-036	275-27-195	PREP	98-10-040	284-19-090	AMD	98-13-095
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255-01-010	NEW	98-07-071	275-27-205	PREP	98-10-040	284-19-100	AMD	98-13-095
255-01-020	NEW-P	98-04-060	275-27-210	PREP	98-10-040	284-19-110	AMD-XA	98-08-097
255-01-020	NEW	98-07-071	275-27-212	PREP	98-10-040	284-19-110	AMD	98-13-095
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284-19-180	AMD-XA	98-08-097	284-36A-055	NEW-XA	98-04-085	284-50-435	REP	98-11-088
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284-20-006	AMD-XA	98-13-093	284-36A-060	NEW-XA	98-04-085	284-51-180	REP	98-09-041
284-20-020	AMD-XA	98-13-093	284-36A-060	NEW	98-09-016	284-54	PREP	98-13-087
284-20-030	AMD-XA	98-13-093	284-36A-065	NEW-XA	98-04-085	284-54	PREP	98-13-089
284-20-040	AMD-XA	98-13-093	284-36A-065	NEW	98-09-016	284-58-010	AMD-XA	98-08-098
284-20-050	AMD-XA	98-13-093	284-43	AMD-C	98-02-063	284-58-010	AMD	98-13-094
284-20-070	REP-XA	98-13-093	284-43	AMD-C	98-03-004	284-58-020	AMD-XA	98-08-098
284-20-100	AMD-XA	98-13-093	284-43	AMD	98-04-005	284-58-020	AMD	98-13-094
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284-23	AMD-C	98-02-062	284-43-040	REP	98-04-005	284-58-040	REP	98-09-041
284-23	AMD-C	98-03-076	284-43-100	REP	98-04-005	284-58-050	REP-XA	98-04-084
284-23	AMD-C	98-07-062	284-43-110	NEW	98-04-005	284-58-050	REP	98-09-041
284-23-120	REP-XA	98-07-065	284-43-120	NEW	98-04-005	284-58-060	REP-XA	98-04-084
284-23-120	REP	98-11-088	284-43-130	NEW	98-04-005	284-58-060	REP	98-09-041
284-23-130	REP-XA	98-07-065	284-43-200	NEW	98-04-005	284-58-250	AMD-XA	98-08-098
284-23-130	REP	98-11-088	284-43-210	NEW	98-04-005	284-58-250	AMD	98-13-094
284-23-200	AMD-P	98-04-083	284-43-220	NEW	98-04-005	284-58-260	AMD-XA	98-08-098
284-23-200	AMD	98-11-003	284-43-250	NEW	98-04-005	284-58-260	AMD	98-13-094
284-23-210	AMD-P	98-04-083	284-43-300	NEW	98-04-005	284-58-270	REP-XA	98-08-098
284-23-210	AMD	98-11-003	284-43-310	NEW	98-04-005	284-58-270	REP	98-13-094
284-23-220	AMD-P	98-04-083	284-43-320	NEW	98-04-005	284-58-280	REP-XA	98-08-098
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284-23-230	AMD-P	98-04-083	284-43-340	NEW	98-04-005	284-60	PREP	98-13-087
284-23-230	AMD	98-11-003	284-43-400	NEW-W	98-10-082	284-66	PREP	98-13-088
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284-23-235	NEW	98-11-003	284-43-420	NEW-W	98-10-082	284-74-020	NEW	98-05-069
284-23-240	AMD-P	98-04-083	284-43-610	NEW-W	98-10-082	286-04-010	AMD-P	98-04-079
284-23-240	AMD	98-11-003	284-43-620	NEW-W	98-10-082	286-04-010	AMD	98-08-014
284-23-250	AMD-P	98-04-083	284-43-630	NEW-W	98-10-082	286-04-060	AMD-P	98-04-079
284-23-250	AMD	98-11-003	284-43-640	NEW-W	98-10-082	286-04-060	AMD	98-08-014
284-23-260	REP-P	98-04-083	284-43-650	NEW-W	98-10-082	286-06-065	AMD-P	97-04-079
284-23-260	REP	98-11-003	284-43-700	NEW	98-04-005	286-06-065	AMD	98-08-014
284-23-270	REP-P	98-04-083	284-43-710	NEW	98-04-005	286-13-030	AMD-P	98-04-079
284-23-270	REP	98-11-003	284-43-720	NEW	98-04-005	286-13-030	AMD	98-08-014
284-23-380	REP-XA	98-07-065	284-43-730	NEW	98-04-005	286-13-040	AMD-P	98-04-079
284-23-380	REP	98-11-088	284-43-800	NEW	98-04-005	286-13-040	AMD	98-08-014
284-23-610	AMD	98-05-026	284-43-900	NEW	98-04-011	286-13-045	AMD-P	98-04-079
284-23-620	AMD	98-05-026	284-43-905	NEW	98-04-011	286-13-045	AMD	98-08-014
284-23-640	AMD	98-05-026	284-43-910	NEW	98-04-011	286-13-070	AMD-P	98-04-079
284-23-645	NEW	98-05-026	284-43-915	NEW	98-04-011	286-13-070	AMD	98-08-014
284-23-650	AMD	98-05-026	284-43-920	NEW	98-04-011	286-13-085	AMD-P	98-04-079
284-23-660	AMD	98-05-026	284-43-925	NEW	98-04-011	286-13-085	AMD	98-08-014
284-23-690	AMD	98-05-026	284-43-930	NEW	98-04-011	286-13-100	AMD-P	98-04-079
284-23-710	AMD	98-05-026	284-43-930	AMD-XA	98-07-105	286-13-100	AMD	98-08-014
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284-24-005	NEW-P	98-13-092	284-43-940	NEW	98-04-011	286-26-110	AMD-P	98-04-079
284-24-015	AMD-P	98-13-092	284-43-945	NEW	98-04-011	286-26-110	AMD	98-08-014
284-24-060	AMD-P	98-13-092	284-43-950	NEW	98-04-011	286-27-040	AMD-P	98-04-079
284-24-062	NEW-P	98-13-092	284-43-955	NEW	98-04-011	286-27-040	AMD	98-08-014
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284-24-065	AMD-P	98-13-092	284-44	REP-C	98-03-004	286-27-055	AMD	98-08-014
284-24-070	AMD-P	98-13-092	284-44-100	REP	98-04-011	286-27-065	AMD-P	98-04-079
284-24-080	AMD-P	98-13-092	284-44-110	AMD-P	98-04-011	286-27-065	AMD	98-08-014
284-24-100	AMD-P	98-13-092	284-44-120	REP	98-04-011	286-27-075	AMD-P	98-04-079
284-24-110	NEW-P	98-13-092	284-44-130	REP	98-04-011	286-27-075	AMD	98-08-014
284-28-001	REP-XA	98-07-065	284-44-140	REP	98-04-011	286-30-050	NEW-P	98-04-079
284-28-001	REP	98-11-088	284-44-150	REP	98-04-011	286-30-050	NEW	98-08-014
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284-36A-010	AMD	98-09-016	284-44-190	REP	98-04-011	286-35-060	AMD	98-08-014
284-36A-020	AMD-XA	98-04-085	284-44-200	REP	98-04-011	288-04-010	NEW-P	98-14-060
284-36A-020	AMD	98-09-016	284-44-210	REP	98-04-011	288-04-020	NEW-P	98-14-060
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284-36A-030	REP	98-09-016	284-44-360	REP	98-11-088	288-04-060	NEW-P	98-14-060
284-36A-040	NEW-XA	98-04-085	284-44-410	REP	98-04-005	288-06-010	NEW-P	98-14-059
284-36A-040	NEW	98-09-016	284-46	REP-C	98-03-004	288-06-020	NEW-P	98-14-059
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296-17-726	AMD-P	98-12-079	296-24-061	NEW	98-06-061	296-44-05135	REP	98-07-009
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296-17-737	AMD-P	98-12-079	296-24-06155	NEW	98-06-061	296-44-07427	REP	98-07-009
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296-17-752	AMD-P	98-12-079	296-24-20519	AMD	98-10-073	296-44-11029	REP	98-07-009
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296-17-757	AMD-P	98-12-079	296-24-20533	AMD	98-10-073	296-44-13405	REP	98-07-009
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296-17-759	AMD-P	98-12-079	296-30-050	REP-XR	98-08-100	296-44-13421	REP	98-07-009
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296-17-762	AMD-P	98-12-079	296-44-005	REP	98-07-009	296-44-17005	REP	98-07-009
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296-17-76203	AMD-P	98-12-079	296-44-013	REP	98-07-009	296-44-182	REP	98-07-009
296-17-76204	AMD-P	98-12-079	296-44-015	REP	98-07-009	296-44-18205	REP	98-07-009
296-17-76205	AMD-P	98-12-079	296-44-016	REP	98-07-009	296-44-18225	REP	98-07-009
296-17-76206	AMD-P	98-12-079	296-44-017	REP	98-07-009	296-44-18239	REP	98-07-009
296-17-76207	AMD-P	98-12-079	296-44-023	REP	98-07-009	296-44-18250	REP	98-07-009
296-17-76208	AMD-P	98-12-079	296-44-02301	REP	98-07-009	296-44-18261	REP	98-07-009
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296-45-65035	REP	98-07-009	296-81-007	AMD	98-12-043	296-125	PREP	98-02-079
296-45-65037	REP	98-07-009	296-82	PREP	98-13-124	296-126-098	REP-XR	98-08-103
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296-45-65045	REP	98-07-009	296-86-020	REP-P	98-07-094	296-150C-0310	AMD	98-14-078
296-45-65047	REP	98-07-009	296-86-020	REP	98-12-043	296-150C-0320	AMD-P	98-07-095
296-45-660	REP	98-07-009	296-86-030	REP-P	98-07-094	296-150C-0320	AMD	98-14-078
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296-45-66011	REP	98-07-009	296-86-060	REP-P	98-07-094	296-150C-0500	AMD	98-14-078
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296-45-680	REP	98-07-009	296-86-070	REP-P	98-07-094	296-150C-0560	AMD	98-14-078
296-45-690	REP	98-07-009	296-86-070	REP	98-12-043	296-150C-0800	AMD-P	98-07-095
296-45-695	REP	98-07-009	296-86-075	REP-P	98-07-094	296-150C-0800	AMD	98-14-078
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296-46-21052	AMD	98-12-042	296-86A-028	NEW	98-12-043	296-150C-1580	AMD	98-14-078
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296-46-495	AMD	98-12-042	296-86A-070	NEW	98-12-043	296-150C-1740	AMD	98-14-078
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296-46-910	AMD	98-12-042	296-86A-075	NEW	98-12-043	296-150C-1752	NEW	98-14-078
296-46-915	AMD-P	98-07-097	296-86A-080	NEW-P	98-07-094	296-150C-1753	NEW-P	98-07-095
296-46-915	AMD	98-12-042	296-86A-080	NEW	98-12-043	296-150C-1753	NEW	98-14-078
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296-46-940	AMD	98-12-042	296-95	PREP	98-13-124	296-150C-1756	NEW	98-14-078
296-52-489	AMD-XA	98-12-103	296-100	PREP	98-13-124	296-150C-1757	NEW-P	98-07-095
296-56	PREP	98-08-104	296-104	PREP	98-09-065	296-150C-1757	NEW	98-14-078
296-56	PREP	98-12-080	296-104-700	AMD-P	98-04-017	296-150C-1758	NEW-P	98-07-095
296-62	PREP	98-08-104	296-104-700	AMD	98-09-064	296-150C-1758	NEW	98-14-078
296-62	PREP	98-12-082	296-124-010	REP-XR	98-07-093	296-150C-1759	NEW-P	98-07-095
296-62	PREP	98-12-084	296-124-010	REP	98-14-042	296-150C-1759	NEW	98-14-078
296-62-07477	AMD-P	98-05-061	296-124-020	REP-XR	98-07-093	296-150C-1760	NEW-P	98-07-095
296-62-07477	AMD	98-10-029	296-124-020	REP	98-14-042	296-150C-1760	NEW	98-14-078
296-62-07515	AMD-P	98-05-061	296-124-021	REP-XR	98-07-093	296-150C-3000	AMD-P	98-07-096
296-62-07515	AMD-E	98-10-028	296-124-021	REP	98-14-042	296-150C-3000	AMD	98-12-041
296-62-07515	AMD	98-10-029	296-124-022	REP-XR	98-07-093	296-150F-0020	AMD-P	98-07-095
296-65	PREP	98-08-104	296-124-022	REP	98-14-042	296-150F-0020	AMD	98-14-078
296-78	PREP	98-08-104	296-124-040	REP-XR	98-07-093	296-150F-0130	NEW-P	98-07-095
296-81	PREP	98-02-080	296-124-040	REP	98-14-042	296-150F-0130	NEW	98-14-078

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296-150F-0200	AMD	98-14-078	296-155-48525	REP	98-05-046	296-401-087	REP	98-12-042
296-150F-0210	AMD-P	98-07-095	296-155-48527	REP	98-05-046	296-401-090	REP-P	98-07-097
296-150F-0210	AMD	98-14-078	296-155-48529	REP	98-05-046	296-401-090	REP	98-12-042
296-150F-0460	AMD-P	98-07-095	296-155-48531	REP	98-05-046	296-401-100	REP-P	98-07-097
296-150F-0460	AMD	98-14-078	296-155-48533	REP	98-05-046	296-401-100	REP	98-12-042
296-150F-0500	AMD-P	98-07-095	296-155-48536	REP	98-05-046	296-401-110	REP-P	98-07-097
296-150F-0500	AMD	98-14-078	296-155-487	NEW	98-05-046	296-401-110	REP	98-12-042
296-150F-3000	AMD-P	98-07-096	296-155-488	NEW	98-05-046	296-401-120	REP-P	98-07-097
296-150F-3000	AMD	98-12-041	296-155-489	NEW	98-05-046	296-401-120	REP	98-12-042
296-150M-0020	AMD-P	98-07-095	296-155-490	NEW	98-05-046	296-401-150	REP-P	98-07-097
296-150M-0020	AMD	98-14-078	296-155-493	NEW	98-05-046	296-401-150	REP	98-12-042
296-150M-0306	NEW-P	98-07-095	296-155-494	NEW	98-05-046	296-401-160	REP-P	98-07-097
296-150M-0306	NEW	98-14-078	296-155-496	NEW	98-05-046	296-401-160	REP	98-12-042
296-150M-0307	NEW-P	98-07-095	296-155-497	NEW	98-05-046	296-401-163	REP-P	98-07-097
296-150M-0307	NEW	98-14-078	296-155-498	NEW	98-05-046	296-401-163	REP	98-12-042
296-150M-0310	AMD-P	98-07-095	296-155-528	NEW	98-05-046	296-401-165	REP-P	98-07-097
296-150M-0310	AMD	98-14-078	296-155-605	AMD	98-05-046	296-401-165	REP	98-12-042
296-150M-0331	NEW-P	98-07-095	296-155-615	AMD	98-05-046	296-401-168	REP-P	98-07-097
296-150M-0331	NEW	98-14-078	296-155-683	AMD	98-05-046	296-401-168	REP	98-12-042
296-150M-0400	AMD-P	98-07-095	296-155-688	AMD	98-05-046	296-401-170	REP-P	98-07-097
296-150M-0400	AMD	98-14-078	296-155-689	AMD	98-05-046	296-401-170	REP	98-12-042
296-150M-0600	AMD-P	98-07-095	296-155-700	AMD	98-05-046	296-401-175	REP-P	98-07-097
296-150M-0600	AMD	98-14-078	296-155-730	AMD	98-05-046	296-401-175	REP	98-12-042
296-150M-0610	AMD-P	98-07-095	296-200A-900	AMD-P	98-07-096	296-401-180	REP-P	98-07-097
296-150M-0610	AMD	98-14-078	296-200A-900	AMD	98-12-041	296-401-180	REP	98-12-042
296-150M-0620	AMD-P	98-07-095	296-301-020	AMD	98-10-073	296-401A	PREP	98-13-123
296-150M-0620	AMD	98-14-078	296-305	PREP	98-11-075	296-401A-100	NEW-P	98-07-097
296-150M-0640	AMD-P	98-07-095	296-307	PREP	98-04-094	296-401A-100	NEW	98-12-042
296-150M-0640	AMD	98-14-078	296-307	PREP	98-10-035	296-401A-105	NEW-P	98-07-097
296-150M-0660	AMD-P	98-07-095	296-400A	PREP	98-06-043	296-401A-105	NEW	98-12-042
296-150M-0660	AMD	98-14-078	296-400A-005	AMD-P	98-09-124	296-401A-110	NEW-P	98-07-097
296-150M-0700	REP-P	98-07-095	296-400A-005	AMD	98-13-126	296-401A-110	NEW	98-12-042
296-150M-0700	REP	98-14-078	296-400A-021	NEW-P	98-09-124	296-401A-120	NEW-P	98-07-097
296-150M-0710	REP-P	98-07-095	296-400A-021	NEW	98-13-126	296-401A-120	NEW	98-12-042
296-150M-0710	REP	98-14-078	296-400A-025	NEW-P	98-09-124	296-401A-130	NEW-P	98-07-097
296-150M-0720	REP-XR	98-14-077	296-400A-025	NEW	98-13-126	296-401A-130	NEW	98-12-042
296-150M-0730	REP-P	98-07-095	296-400A-026	NEW-P	98-09-124	296-401A-140	NEW-P	98-07-097
296-150M-0730	REP	98-14-078	296-400A-026	NEW	98-13-126	296-401A-140	NEW	98-12-042
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296-150M-3000	AMD	98-12-041	296-400A-027	NEW	98-13-126	296-401A-150	NEW	98-12-042
296-150P-3000	AMD-P	98-07-096	296-400A-030	AMD-P	98-09-124	296-401A-160	NEW-P	98-07-097
296-150P-3000	AMD	98-12-041	296-400A-030	AMD	98-13-126	296-401A-160	NEW	98-12-042
296-150R-3000	AMD-P	98-07-096	296-400A-031	AMD-P	98-09-124	296-401A-200	NEW-P	98-07-097
296-150R-3000	AMD	98-12-041	296-400A-031	AMD	98-13-126	296-401A-200	NEW	98-12-042
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296-155-229	NEW-P	98-05-073	296-400A-035	AMD	98-13-126	296-401A-210	NEW	98-12-042
296-155-229	NEW	98-13-069	296-400A-045	AMD-P	98-07-096	296-401A-220	NEW-P	98-07-097
296-155-24525	AMD	98-05-046	296-400A-045	AMD-P	98-09-124	296-401A-220	NEW	98-12-042
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296-155-330	AMD	98-13-069	296-400A-045	AMD	98-13-126	296-401A-230	NEW	98-12-042
296-155-481	AMD	98-05-046	296-400A-070	AMD-P	98-09-124	296-401A-300	NEW-P	98-07-097
296-155-482	NEW	98-05-046	296-400A-070	AMD	98-13-126	296-401A-300	NEW	98-12-042
296-155-483	AMD	98-05-046	296-400A-110	AMD-P	98-09-124	296-401A-310	NEW-P	98-07-097
296-155-484	NEW	98-05-046	296-400A-110	AMD	98-13-126	296-401A-310	NEW	98-12-042
296-155-485	AMD	98-05-046	296-400A-120	AMD-P	98-09-124	296-401A-320	NEW-P	98-07-097
296-155-48503	REP	98-05-046	296-400A-120	AMD	98-13-126	296-401A-320	NEW	98-12-042
296-155-48504	REP	98-05-046	296-400A-140	AMD-P	98-09-124	296-401A-400	NEW-P	98-07-097
296-155-48505	REP	98-05-046	296-400A-140	AMD	98-13-126	296-401A-400	NEW	98-12-042
296-155-48506	REP	98-05-046	296-400A-300	AMD-P	98-09-124	296-401A-410	NEW-P	98-07-097
296-155-48507	REP	98-05-046	296-400A-300	AMD	98-13-126	296-401A-410	NEW	98-12-042
296-155-48508	REP	98-05-046	296-401-020	REP-P	98-07-097	296-401A-420	NEW-P	98-07-097
296-155-48509	REP	98-05-046	296-401-020	REP	98-12-042	296-401A-420	NEW	98-12-042
296-155-48510	REP	98-05-046	296-401-030	REP-P	98-07-097	296-401A-430	NEW-P	98-07-097
296-155-48511	REP	98-05-046	296-401-030	REP	98-12-042	296-401A-430	NEW	98-12-042
296-155-48512	REP	98-05-046	296-401-060	REP-P	98-07-097	296-401A-500	NEW-P	98-07-097
296-155-48513	REP	98-05-046	296-401-060	REP	98-12-042	296-401A-500	NEW	98-12-042
296-155-48514	REP	98-05-046	296-401-075	REP-P	98-07-097	296-401A-510	NEW-P	98-07-097
296-155-48515	REP	98-05-046	296-401-075	REP	98-12-042	296-401A-510	NEW	98-12-042
296-155-48516	REP	98-05-046	296-401-080	REP-P	98-07-097	296-401A-520	NEW-P	98-07-097
296-155-48517	REP	98-05-046	296-401-080	REP	98-12-042	296-401A-520	NEW	98-12-042
296-155-48518	REP	98-05-046	296-401-085	REP-P	98-07-097	296-401A-524	NEW-P	98-07-097
296-155-48519	REP	98-05-046	296-401-085	REP	98-12-042	296-401A-524	NEW	98-12-042

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296-401A-530	NEW	98-12-042	308-56A-021	AMD	98-12-099	308-93-242	AMD-P	98-12-072
296-401A-540	NEW-P	98-07-097	308-56A-022	PREP	98-03-024	308-93-243	PREP	98-03-025
296-401A-540	NEW	98-12-042	308-56A-022	AMD-P	98-08-049	308-93-243	AMD-P	98-12-072
296-401A-545	NEW-P	98-07-097	308-56A-022	AMD	98-12-099	308-93-244	PREP	98-03-025
296-401A-545	NEW	98-12-042	308-56A-023	PREP	98-03-024	308-93-244	AMD-P	98-12-072
296-401A-550	NEW-P	98-07-097	308-56A-023	AMD-P	98-08-049	308-93-245	PREP	98-03-025
296-401A-550	NEW	98-12-042	308-56A-023	AMD	98-12-099	308-93-245	AMD-P	98-12-072
296-401A-600	NEW-P	98-07-097	308-56A-025	PREP	98-14-080	308-93-285	PREP	98-03-026
296-401A-600	NEW	98-12-042	308-56A-030	PREP	98-03-024	308-93-285	AMD-P	98-13-044
296-401A-610	NEW-P	98-07-097	308-56A-035	PREP	98-14-080	308-93-290	PREP	98-03-027
296-401A-610	NEW	98-12-042	308-56A-040	PREP	98-14-080	308-93-295	PREP	98-03-027
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296-401A-620	NEW	98-12-042	308-56A-055	PREP	98-14-080	308-93-300	REP-P	98-13-044
296-401A-630	NEW-P	98-07-097	308-56A-060	PREP	98-14-080	308-93-330	PREP	98-03-026
296-401A-630	NEW	98-12-042	308-56A-080	REP-P	98-08-049	308-93-330	REP-P	98-13-044
296-401A-700	NEW-P	98-07-097	308-56A-080	REP	98-12-099	308-93-350	PREP	98-03-026
296-401A-700	NEW	98-12-042	308-56A-085	PREP	98-03-024	308-93-350	AMD-P	98-13-044
296-401A-800	NEW-P	98-07-097	308-56A-085	REP-P	98-08-049	308-93-360	PREP	98-03-026
296-401A-800	NEW	98-12-042	308-56A-085	REP	98-12-099	308-93-360	AMD-P	98-13-044
296-401A-810	NEW-P	98-07-097	308-56A-090	PREP	98-03-024	308-93-420	PREP	98-03-026
296-401A-810	NEW	98-12-042	308-56A-090	AMD-P	98-08-049	308-93-420	REP-P	98-13-044
296-401A-900	NEW-P	98-07-097	308-56A-090	AMD	98-12-099	308-93-430	REP-P	98-05-068
296-401A-900	NEW	98-12-042	308-56A-100	PREP	98-14-080	308-93-430	REP	98-09-023
296-401A-910	NEW-P	98-07-097	308-56A-105	PREP	98-14-080	308-93-440	AMD-P	98-05-068
296-401A-910	NEW	98-12-042	308-56A-110	PREP	98-14-080	308-93-440	AMD	98-09-023
296-401A-920	NEW-P	98-07-097	308-56A-125	PREP	98-14-080	308-93-450	AMD-P	98-05-068
296-401A-920	NEW	98-12-042	308-56A-130	PREP	98-14-080	308-93-450	AMD	98-09-023
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308-04-010	AMD-P	98-06-080	308-93-010	AMD-P	98-13-044	308-93-480	REP	98-09-023
308-04-010	AMD-W	98-07-018	308-93-050	AMD-E	98-09-001	308-93-620	PREP	98-03-026
308-04-020	PREP	98-03-023	308-93-050	AMD-P	98-13-044	308-93-620	AMD-P	98-13-044
308-04-020	AMD-P	98-06-080	308-93-055	NEW-E	98-09-001	308-93-630	PREP	98-03-026
308-04-020	AMD-W	98-07-018	308-93-055	NEW-P	98-13-044	308-93-630	REP-P	98-13-044
308-11-010	REP-P	98-13-027	308-93-056	NEW-E	98-09-001	308-93-640	PREP	98-03-026
308-11-030	AMD-P	98-13-027	308-93-056	NEW-P	98-13-044	308-93-640	AMD-E	98-09-001
308-11-035	AMD-P	98-13-027	308-93-060	PREP	98-03-026	308-93-640	AMD-P	98-13-044
308-11-050	AMD-P	98-13-027	308-93-060	AMD-P	98-13-044	308-93-660	PREP	98-14-082
308-11-120	AMD-P	98-13-027	308-93-069	NEW-P	98-13-044	308-93-670	PREP	98-14-082
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308-12-025	PREP	98-06-047	308-93-070	AMD-P	98-13-044	308-94-030	AMD	98-08-070
308-12-025	AMD-P	98-14-043	308-93-071	PREP	98-03-026	308-94-040	REP-P	98-04-072
308-12-115	AMD-P	98-14-043	308-93-071	AMD-P	98-13-044	308-94-040	REP	98-08-070
308-12-326	PREP	98-05-012	308-93-073	PREP	98-03-026	308-94-050	AMD-P	98-04-072
308-12-326	AMD-P	98-09-057	308-93-073	AMD-P	98-13-044	308-94-050	AMD	98-08-070
308-12-326	AMD	98-12-064	308-93-074	PREP	98-03-026	308-94-070	REP-P	98-04-072
308-14-200	AMD-P	98-13-026	308-93-074	REP-P	98-13-044	308-94-070	REP	98-08-070
308-33-011	AMD-P	98-13-028	308-93-075	PREP	98-03-026	308-94-080	AMD-P	98-04-072
308-33-020	REP-P	98-13-028	308-93-075	REP-P	98-13-044	308-94-080	AMD	98-08-070
308-33-030	AMD-P	98-13-028	308-93-078	PREP	98-03-026	308-94-090	REP-P	98-04-072
308-33-060	AMD-P	98-13-028	308-93-078	AMD-P	98-13-044	308-94-090	REP	98-08-070
308-33-071	AMD-P	98-13-028	308-93-079	PREP	98-03-026	308-94-100	AMD-P	98-04-072
308-33-080	REP-P	98-13-028	308-93-080	PREP	98-03-026	308-94-100	AMD	98-08-070
308-33-090	AMD-P	98-13-028	308-93-080	REP-P	98-13-044	308-94-110	REP-P	98-04-072
308-33-095	AMD-P	98-13-028	308-93-085	PREP	98-03-026	308-94-110	REP	98-08-070
308-33-105	AMD-P	98-13-028	308-93-085	REP-P	98-13-044	308-96A-005	PREP	98-03-021
308-56A-005	PREP	98-03-024	308-93-087	PREP	98-14-082	308-96A-010	PREP	98-03-021
308-56A-005	REP-P	98-08-049	308-93-088	PREP	98-14-082	308-96A-010	REP-P	98-14-012
308-56A-005	REP	98-12-099	308-93-110	PREP	98-03-027	308-96A-015	PREP	98-03-021
308-56A-010	PREP	98-03-024	308-93-120	PREP	98-03-027	308-96A-015	AMD-P	98-14-012
308-56A-010	AMD-P	98-08-049	308-93-180	PREP	98-03-027	308-96A-021	PREP	98-03-021
308-56A-010	AMD	98-12-099	308-93-190	PREP	98-03-027	308-96A-021	AMD-P	98-14-012
308-56A-015	PREP	98-03-024	308-93-200	PREP	98-03-027	308-96A-025	PREP	98-03-021
308-56A-015	AMD-P	98-08-049	308-93-210	PREP	98-03-027	308-96A-025	REP-P	98-14-012
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308-56A-020	PREP	98-03-024	308-93-220	PREP	98-03-027	308-96A-026	AMD-P	98-14-012
308-56A-020	AMD-P	98-08-049	308-93-230	PREP	98-03-027	308-96A-035	PREP	98-03-021
308-56A-020	AMD	98-12-099	308-93-241	PREP	98-03-025	308-96A-035	REP-P	98-14-012
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308-96A-066	AMD	98-09-024	308-97-060	PREP	98-14-081	314-16-205	AMD-XA	98-12-090
308-96A-067	NEW-P	98-04-071	308-97-090	PREP	98-14-081	314-16-210	AMD-XA	98-12-090
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308-96A-320	REP-P	98-15-014	314-16-020	AMD-XA	98-12-090	314-52-040	AMD-XA	98-12-090
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308-96A-325	REP-P	98-15-014	314-16-050	AMD-XA	98-12-090	314-52-085	AMD-XA	98-12-090
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314-70-040	AMD-XA	98-12-090	315-11A-153	REP	98-13-018	315-36-110	NEW-C	98-08-064
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315-02-080	AMD	98-08-067	315-11A-159	REP	98-13-018	315-36-140	NEW-P	98-04-073
315-02-170	REP-P	98-04-073	315-11A-160	REP-XR	98-07-090	315-36-140	NEW-C	98-08-064
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356-06-080	AMD-P	98-15-035	356-46-030	AMD-P	98-15-035	388-14-540	NEW-P	98-13-081
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388-96-110	REP-P	98-15-141	388-96-744	NEW-P	98-15-141	388-215-1060	REP-P	98-11-084
388-96-113	REP-P	98-15-141	388-96-745	REP-P	98-15-141	388-215-1070	REP-P	98-11-084
388-96-119	AMD-P	98-15-141	388-96-746	NEW-P	98-15-141	388-215-1080	REP-P	98-11-084
388-96-122	AMD-P	98-15-141	388-96-747	NEW-P	98-15-141	388-215-1100	REP-P	98-11-084
388-96-128	REP-P	98-15-141	388-96-752	REP-P	98-15-141	388-215-1110	REP-P	98-11-084
388-96-131	REP-P	98-15-141	388-96-754	REP-P	98-15-141	388-215-1115	REP-P	98-11-084
388-96-134	REP-P	98-15-141	388-96-757	AMD-P	98-15-141	388-215-1120	REP-P	98-11-084
388-96-202	NEW-P	98-15-141	388-96-760	AMD-P	98-15-141	388-215-1130	REP-P	98-11-084
388-96-204	REP-P	98-15-141	388-96-761	REP-P	98-15-141	388-215-1140	REP-P	98-11-084
388-96-207	REP-P	98-15-141	388-96-763	REP-P	98-15-141	388-215-1150	REP-P	98-11-084
388-96-210	REP-P	98-15-141	388-96-764	REP-P	98-15-141	388-215-1160	REP-P	98-11-084
388-96-213	REP-P	98-15-141	388-96-765	REP-P	98-15-141	388-215-1170	REP-P	98-11-084
388-96-218	NEW-P	98-15-141	388-96-768	REP-P	98-15-141	388-215-1225	REP-P	98-11-084
388-96-220	REP-P	98-15-141	388-96-769	REP-P	98-15-141	388-215-1230	REP-P	98-11-084
388-96-221	REP-P	98-15-141	388-96-774	REP-P	98-15-141	388-215-1245	REP-P	98-11-084
388-96-224	REP-P	98-15-141	388-96-776	AMD-P	98-15-141	388-215-1300	REP-P	98-11-084
388-96-226	REP-P	98-15-141	388-96-778	REP-P	98-15-141	388-215-1320	REP-P	98-11-084
388-96-228	REP-P	98-15-141	388-96-801	REP-P	98-15-141	388-215-1325	REP-P	98-11-084
388-96-229	REP-P	98-15-141	388-96-804	REP-P	98-15-141	388-215-1330	REP-P	98-11-084
388-96-501	REP-P	98-15-141	388-96-807	REP-P	98-15-141	388-215-1335	REP-P	98-11-084
388-96-502	AMD-P	98-15-141	388-96-810	REP-P	98-15-141	388-215-1340	REP-P	98-11-084
388-96-503	REP-P	98-15-141	388-96-813	REP-P	98-15-141	388-215-1345	REP-P	98-11-084
388-96-505	AMD-P	98-15-141	388-96-816	REP-P	98-15-141	388-215-1350	REP-P	98-11-084
388-96-507	REP-P	98-15-141	388-96-901	AMD-P	98-15-141	388-215-1355	REP-P	98-11-084
388-96-508	REP-P	98-15-141	388-96-904	AMD-P	98-15-141	388-215-1360	REP-P	98-11-084
388-96-509	REP-P	98-15-141	388-96-905	NEW-P	98-15-141	388-215-1365	REP-P	98-11-084
388-96-513	REP-P	98-15-141	388-97	PREP	98-06-089	388-215-1370	REP-P	98-11-084
388-96-521	REP-P	98-15-141	388-97-235	AMD-W	98-13-077	388-215-1375	REP-P	98-11-084
388-96-523	REP-P	98-15-141	388-150-180	PREP	98-02-057	388-215-1380	REP-P	98-11-084
388-96-525	AMD-P	98-15-141	388-150-190	PREP	98-02-057	388-215-1385	REP-P	98-11-084
388-96-529	REP-P	98-15-141	388-150-200	PREP	98-02-057	388-215-1390	REP-P	98-11-084
388-96-530	NEW-P	98-15-141	388-150-470	PREP	98-02-057	388-215-1400	REP-P	98-11-084
388-96-531	REP-P	98-15-141	388-151	PREP	98-10-104	388-215-1410	REP-P	98-11-084

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388-250-1350	REP-P	98-11-084	388-290-090	PREP	98-08-075	388-418-0010	NEW-P	98-11-084
388-250-1400	REP-P	98-11-084	388-310-0400	AMD-P	98-15-139	388-418-0015	NEW-P	98-11-084
388-250-1450	REP-P	98-11-084	388-310-0500	AMD-P	98-15-139	388-418-0020	NEW-P	98-11-084
388-250-1500	REP-P	98-11-084	388-310-1000	AMD-P	98-15-139	388-418-0025	NEW-P	98-11-084
388-250-1550	REP-P	98-11-084	388-310-1050	NEW-P	98-15-139	388-418-0030	NEW-P	98-11-084
388-250-1600	REP-P	98-11-084	388-310-1300	NEW-S	98-03-080	388-420-010	NEW-P	98-11-084
388-250-1650	REP-P	98-11-084	388-310-1300	NEW-S	98-07-042	388-422-0005	NEW-P	98-11-084
388-250-1700	AMD	98-06-057	388-310-1300	NEW	98-10-054	388-422-0010	NEW-P	98-11-084
388-250-1700	REP-P	98-11-084	388-310-1600	AMD-P	98-15-139	388-422-0020	NEW-P	98-11-084
388-250-1750	REP-P	98-11-084	388-320-340	REP-P	98-08-076	388-422-0030	NEW-P	98-11-084
388-255-1350	REP-P	98-11-084	388-320-340	REP	98-11-034	388-424-0005	NEW-P	98-11-084
388-255-1400	REP-P	98-11-084	388-400-0005	NEW-P	98-11-084	388-424-0010	NEW-P	98-11-084
388-265	PREP	98-07-099	388-400-0010	NEW-P	98-11-084	388-424-0015	NEW-P	98-11-084
388-265-1010	REP-P	98-11-084	388-400-0015	NEW-P	98-11-084	388-424-0020	NEW-P	98-11-084
388-265-1050	REP-P	98-11-084	388-400-0020	NEW-P	98-11-084	388-424-0025	NEW-P	98-11-084
388-265-1100	REP-P	98-11-084	388-400-0025	NEW-P	98-11-084	388-426-0005	NEW-P	98-11-084
388-265-1150	AMD-P	98-11-074	388-400-0030	NEW-P	98-11-084	388-428-0005	NEW-P	98-11-084
388-265-1155	NEW-P	98-11-074	388-400-0035	NEW-P	98-11-084	388-428-0005	NEW-W	98-15-113
388-265-1200	AMD-P	98-11-074	388-400-0040	NEW-P	98-11-084	388-428-0010	NEW-P	98-11-084
388-265-1250	AMD-P	98-11-074	388-400-0045	NEW-P	98-13-080	388-430-0001	NEW-P	98-11-084
388-265-1275	AMD-P	98-11-074	388-404-0005	NEW-P	98-11-084	388-430-0005	NEW-P	98-11-084
388-265-1300	AMD-P	98-11-074	388-404-0010	NEW-P	98-11-084	388-430-0010	NEW-P	98-11-084
388-265-1375	NEW-P	98-11-074	388-404-0015	NEW-P	98-11-084	388-430-0015	NEW-P	98-11-084
388-265-1400	REP-P	98-11-074	388-406-0005	NEW-P	98-11-084	388-430-0020	NEW-P	98-11-084
388-265-1450	AMD-P	98-11-074	388-406-0010	NEW-P	98-11-084	388-430-0025	NEW-P	98-11-084
388-265-1500	AMD-P	98-11-074	388-406-0015	NEW-P	98-11-084	388-434-0005	NEW-P	98-11-084
388-265-1550	REP-P	98-11-074	388-406-0020	NEW-P	98-11-084	388-434-0010	NEW-P	98-11-084
388-265-1550	REP-P	98-11-084	388-406-0025	NEW-P	98-11-084	388-436-0001	NEW-P	98-11-084
388-265-1600	AMD-P	98-11-074	388-406-0030	NEW-P	98-11-084	388-436-0005	NEW-P	98-11-084
388-265-1700	REP-P	98-11-074	388-406-0035	NEW-P	98-11-084	388-436-0010	NEW-P	98-11-084
388-265-1700	REP-P	98-11-084	388-406-0040	NEW-P	98-11-084	388-436-0015	NEW-P	98-11-084
388-265-1800	REP-P	98-11-084	388-406-0045	NEW-P	98-11-084	388-436-0020	NEW-P	98-11-084
388-265-1850	REP-P	98-11-084	388-406-0050	NEW-P	98-11-084	388-436-0025	NEW-P	98-11-084
388-265-1900	REP-P	98-11-084	388-406-0055	NEW-P	98-11-084	388-436-0030	NEW-P	98-11-084
388-265-1950	REP-P	98-11-084	388-406-0060	NEW-P	98-11-084	388-436-0035	NEW-P	98-11-084
388-265-2000	REP-P	98-11-084	388-406-0065	NEW-P	98-11-084	388-436-0040	NEW-P	98-11-084
388-270-1005	REP-P	98-11-084	388-408-0005	NEW-P	98-11-084	388-436-0045	NEW-P	98-11-084
388-270-1010	REP-P	98-11-084	388-408-0010	NEW-P	98-11-084	388-436-0050	NEW-P	98-11-084
388-270-1025	REP-P	98-11-084	388-408-0015	NEW-P	98-11-084	388-436-0050	NEW-W	98-13-054
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388-270-1100	REP-P	98-11-084	388-408-0025	NEW-P	98-11-084	388-437-0001	NEW-P	98-11-084
388-270-1110	REP-P	98-11-084	388-408-0030	NEW-P	98-11-084	388-438-0100	NEW-P	98-11-084
388-270-1125	REP-P	98-11-084	388-408-0035	NEW-P	98-11-084	388-438-0110	NEW-P	98-11-084
388-270-1150	REP-P	98-11-084	388-408-0040	NEW-P	98-11-084	388-440-0001	NEW-P	98-11-084
388-270-1200	REP-P	98-11-084	388-408-0045	NEW-P	98-11-084	388-440-0005	NEW-P	98-11-084
388-270-1250	REP-P	98-11-084	388-408-0050	NEW-P	98-11-084	388-442-0010	NEW-P	98-11-084
388-270-1300	REP-P	98-11-084	388-408-0055	NEW-P	98-11-084	388-444-0005	NEW-P	98-11-084
388-270-1400	REP-P	98-11-084	388-410-0001	NEW-P	98-11-084	388-444-0010	NEW-P	98-11-084
388-270-1500	REP-P	98-11-084	388-410-0005	NEW-P	98-11-084	388-444-0015	NEW-P	98-11-084
388-270-1550	REP-P	98-11-084	388-410-0010	NEW-P	98-11-084	388-444-0020	NEW-P	98-11-084
388-270-1600	REP-P	98-11-084	388-410-0015	NEW-P	98-11-084	388-444-0030	NEW-P	98-11-084
388-275	PREP	98-07-036	388-410-0020	NEW-P	98-11-084	388-444-0035	NEW-P	98-11-084
388-275-0020	REP-P	98-11-084	388-410-0025	NEW-P	98-11-084	388-444-0040	NEW-P	98-11-084
388-275-0030	REP-P	98-11-084	388-410-0030	NEW-P	98-11-084	388-444-0045	NEW-P	98-11-084
388-275-0050	REP-P	98-11-084	388-410-0035	NEW-P	98-11-084	388-444-0050	NEW-P	98-11-084
388-275-0060	REP-P	98-11-084	388-410-0040	NEW-P	98-11-084	388-444-0055	NEW-P	98-11-084
388-275-0070	REP-P	98-11-084	388-412-0005	NEW-P	98-11-084	388-444-0060	NEW-P	98-11-084
388-275-0090	REP-P	98-11-084	388-412-0010	NEW-P	98-11-084	388-444-0065	NEW-P	98-11-084
388-280	PREP	98-07-037	388-412-0015	NEW-P	98-11-084	388-444-0070	NEW-P	98-11-084
388-290	PREP	98-08-075	388-412-0020	NEW-P	98-11-084	388-444-0075	NEW-P	98-11-084
388-290-010	AMD-P	98-03-083	388-412-0025	NEW-P	98-11-084	388-444-0080	NEW-P	98-11-084
388-290-010	AMD	98-08-021	388-412-0030	NEW-P	98-11-084	388-446-0001	NEW-P	98-11-084
388-290-020	AMD-P	98-03-083	388-412-0035	NEW-P	98-11-084	388-446-0005	NEW-P	98-11-084
388-290-020	AMD	98-08-021	388-412-0040	NEW-P	98-11-084	388-446-0010	NEW-P	98-11-084
388-290-025	AMD-P	98-03-083	388-414-0001	NEW-P	98-11-084	388-446-0015	NEW-P	98-11-084
388-290-025	AMD	98-08-021	388-416-0005	NEW-P	98-11-084	388-446-0020	NEW-P	98-11-084
388-290-035	AMD-P	98-03-083	388-416-0010	NEW-P	98-11-084	388-448-0001	NEW-P	98-11-084
388-290-035	AMD	98-08-021	388-416-0015	NEW-P	98-11-084	388-448-0005	NEW-P	98-11-084
388-290-050	AMD-P	98-03-083	388-416-0020	NEW-P	98-11-084	388-450-0005	NEW-P	98-11-084
388-290-050	AMD	98-08-021	388-416-0025	NEW-P	98-11-084	388-450-0010	NEW-P	98-11-084
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388-290-090	AMD-P	98-03-083	388-416-0035	NEW-P	98-11-084	388-450-0020	NEW-P	98-11-084
388-290-090	AMD	98-08-021	388-418-0005	NEW-P	98-11-084	388-450-0025	NEW-P	98-11-084

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388-450-0035	NEW-P	98-11-084	388-470-0010	NEW-P	98-11-084	388-504-0410	REP-P	98-13-082
388-450-0040	NEW-P	98-11-084	388-470-0015	NEW-P	98-11-084	388-504-0420	REP-P	98-13-082
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388-450-0050	NEW-P	98-11-084	388-470-0025	NEW-P	98-11-084	388-504-0440	REP-P	98-13-082
388-450-0055	NEW-P	98-11-084	388-470-0030	NEW-P	98-11-084	388-504-0450	REP-P	98-13-082
388-450-0060	NEW-P	98-11-084	388-470-0035	NEW-P	98-11-084	388-504-0460	REP-P	98-13-082
388-450-0065	NEW-P	98-11-084	388-470-0040	NEW-P	98-11-084	388-504-0470	REP-P	98-13-082
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388-450-0095	NEW-P	98-11-084	388-470-0070	NEW-P	98-11-084	388-505-0220	NEW-P	98-11-084
388-450-0100	NEW-P	98-11-084	388-470-0075	NEW-P	98-11-084	388-505-0501	REP-P	98-13-082
388-450-0105	NEW-P	98-11-084	388-470-0080	NEW-P	98-11-084	388-505-0505	REP-P	98-13-082
388-450-0110	NEW-P	98-11-084	388-472-0005	NEW-P	98-11-084	388-505-0510	REP-P	98-13-082
388-450-0115	NEW-P	98-11-084	388-474-0001	NEW-P	98-11-084	388-505-0520	AMD-P	98-08-081
388-450-0120	NEW-P	98-11-084	388-474-0005	NEW-P	98-11-084	388-505-0520	AMD-E	98-08-088
388-450-0125	NEW-P	98-11-084	388-474-0010	NEW-P	98-11-084	388-505-0520	REP-P	98-13-082
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388-450-0135	NEW-P	98-11-084	388-474-0020	NEW-P	98-11-084	388-505-0530	REP-P	98-13-082
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388-450-0160	NEW-P	98-11-084	388-478-0020	NEW-P	98-11-084	388-505-0590	REP-P	98-13-082
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388-450-0225	NEW-P	98-11-084	388-478-0085	NEW-P	98-11-084	388-507-0740	AMD-E	98-08-088
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388-450-0240	NEW-P	98-11-084	388-484-0005	NEW-P	98-11-084	388-508	PREP	98-10-106
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388-450-0250	NEW-P	98-11-084	388-486-0010	NEW-P	98-11-084	388-508-0805	AMD-E	98-08-085
388-452-0005	NEW-P	98-11-084	388-488-0005	NEW-P	98-11-084	388-508-0805	REP-P	98-13-082
388-452-0010	NEW-P	98-11-084	388-488-0010	NEW-P	98-11-084	388-508-0805	AMD-P	98-15-053
388-454-0005	NEW-P	98-11-084	388-490-0005	NEW-P	98-11-084	388-508-0810	REP-P	98-13-082
388-454-0010	NEW-P	98-11-084	388-500	PREP	98-10-106	388-508-0820	REP-P	98-13-082
388-454-0015	NEW-P	98-11-084	388-500-0005	AMD-P	98-08-081	388-508-0830	REP-P	98-13-082
388-454-0020	NEW-P	98-11-084	388-500-0005	AMD-E	98-08-088	388-508-0835	REP-P	98-13-082
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392-140-602	AMD-P	98-04-036	392-140-736	NEW	98-07-061	415-108-453	NEW	98-09-059
392-140-602	AMD	98-08-013	392-140-740	NEW-P	98-03-067	415-108-455	NEW	98-09-059
392-140-605	AMD-P	98-04-036	392-140-740	NEW	98-07-061	415-108-456	NEW	98-09-059
392-140-605	AMD	98-08-013	392-140-741	NEW-P	98-03-067	415-108-457	NEW	98-09-059
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392-140-616	AMD	98-08-013	392-140-742	NEW-P	98-03-067	415-108-459	NEW	98-09-059
392-140-625	AMD-P	98-04-036	392-140-742	NEW	98-07-061	415-108-460	REP	98-09-059
392-140-625	AMD	98-08-013	392-140-743	NEW-P	98-03-067	415-108-463	NEW	98-09-059
392-140-630	NEW-P	98-04-036	392-140-743	NEW	98-07-061	415-108-464	NEW	98-09-059
392-140-630	NEW	98-08-013	392-140-744	NEW-P	98-03-067	415-108-465	NEW	98-09-059
392-140-640	AMD-P	98-04-036	392-140-744	NEW	98-07-061	415-108-466	NEW	98-09-059
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392-140-656	AMD-P	98-04-036	392-140-745	NEW	98-07-061	415-108-468	NEW	98-09-059
392-140-656	AMD	98-08-013	392-140-746	NEW-P	98-03-067	415-108-469	NEW	98-09-059
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392-140-660	AMD	98-08-013	392-140-747	NEW-P	98-03-067	415-108-477	NEW	98-09-059
392-140-665	AMD-P	98-04-036	392-140-747	NEW	98-07-061	415-108-479	NEW	98-09-059
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	PROP	98-06-044	Underground storage tanks fees	EXAD	98-10-091
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			used oil recycling	MISC	98-01-181
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	MISC	98-10-077	water pollution control revolving fund	PROP	98-13-115
	MISC	98-11-053	Water conservancy boards	EXRE	98-08-060
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			application processing	EMER	98-04-018
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