

February 17, 1999

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filed not later than February 3, 1999

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 February 1999 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
Chair, Statute Law Committee

Dennis W. Cooper
Code Reviser

Gary Reid
Chief Assistant Code Reviser

Kerry S. Radcliff
Editor

Joyce Matzen
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].

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue Number	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³	Expedited Adoption ⁴
	Non-OTS and 30 p. or more	Non-OTS and 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>
98 - 16	Jul 7, 98	Jul 21, 98	Aug 5, 98	Aug 18, 98	Sep 7, 98	Oct 2, 98
98 - 17	Jul 22, 98	Aug 5, 98	Aug 19, 98	Sep 2, 98	Sep 22, 98	Oct 17, 98
98 - 18	Aug 5, 98	Aug 19, 98	Sep 2, 98	Sep 16, 98	Oct 6, 98	Oct 31, 98
98 - 19	Aug 26, 98	Sep 9, 98	Sep 23, 98	Oct 7, 98	Oct 27, 98	Nov 21, 98
98 - 20	Sep 9, 98	Sep 23, 98	Oct 7, 98	Oct 21, 98	Nov 10, 98	Dec 5, 98
98 - 21	Sep 23, 98	Oct 7, 98	Oct 21, 98	Nov 4, 98	Nov 24, 98	Dec 19, 98
98 - 22	Oct 7, 98	Oct 21, 98	Nov 4, 98	Nov 18, 98	Dec 8, 98	Jan 2, 99
98 - 23	Oct 21, 98	Nov 4, 98	Nov 18, 98	Dec 2, 98	Dec 22, 98	Jan 16, 99
98 - 24	Nov 4, 98	Nov 18, 98	Dec 2, 98	Dec 16, 98	Jan 5, 99	Jan 30, 99
99 - 01	Nov 25, 98	Dec 9, 98	Dec 23, 98	Jan 6, 99	Jan 26, 99	Feb 20, 99
99 - 02	Dec 9, 98	Dec 23, 98	Jan 6, 99	Jan 20, 99	Feb 9, 99	Mar 6, 99
99 - 03	Dec 23, 98	Jan 6, 99	Jan 20, 99	Feb 3, 99	Feb 23, 99	Mar 20, 99
99 - 04	Jan 6, 99	Jan 20, 99	Feb 3, 99	Feb 17, 99	Mar 9, 99	Apr 3, 99
99 - 05	Jan 20, 99	Feb 3, 99	Feb 17, 99	Mar 3, 99	Mar 23, 99	Apr 17, 99
99 - 06	Feb 3, 99	Feb 17, 99	Mar 3, 99	Mar 17, 99	Apr 6, 99	May 1, 99
99 - 07	Feb 24, 99	Mar 10, 99	Mar 24, 99	Apr 7, 99	Apr 27, 99	May 22, 99
99 - 08	Mar 10, 99	Mar 24, 99	Apr 7, 99	Apr 21, 99	May 11, 99	Jun 5, 99
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99 - 17	Jul 21, 99	Aug 4, 99	Aug 18, 99	Sep 1, 99	Sep 21, 99	Oct 16, 99
99 - 18	Aug 4, 99	Aug 18, 99	Sep 1, 99	Sep 15, 99	Oct 5, 99	Oct 30, 99
99 - 19	Aug 25, 99	Sep 8, 99	Sep 22, 99	Oct 6, 99	Oct 26, 99	Nov 20, 99
99 - 20	Sep 8, 99	Sep 22, 99	Oct 6, 99	Oct 20, 99	Nov 9, 99	Dec 4, 99
99 - 21	Sep 22, 99	Oct 6, 99	Oct 20, 99	Nov 3, 99	Nov 23, 99	Dec 18, 99
99 - 22	Oct 6, 99	Oct 20, 99	Nov 3, 99	Nov 17, 99	Dec 7, 99	Jan 1, 00
99 - 23	Oct 20, 99	Nov 3, 99	Nov 17, 99	Dec 1, 99	Dec 21, 99	Jan 15, 00
99 - 24	Nov 3, 99	Nov 17, 99	Dec 1, 99	Dec 15, 99	Jan 4, 00	Jan 29, 00

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.

WSR 99-04-002**PREPROPOSAL STATEMENT OF INQUIRY
LIQUOR CONTROL BOARD**

[Filed January 20, 1999, 4:35 p.m.]

Subject of Possible Rule Making: Electronic funds transfer as method of payment between liquor retailers and wholesalers, revision to WAC 314-16-160(2).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 66.08.030, 66.28.010 (1)(a).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The board will consider changes to WAC 314-16-160 in order to recognize electronic funds transfer as payment between a liquor retailer and liquor wholesaler. Currently, WAC 314-16-160(2) states no retail licensee may buy or accept delivery of liquor except for cash paid at the time of delivery. With the advent of electronic payment through a system known as electronic funds transfer (EFT), the Liquor Control Board would like to recognize payment through EFT under certain conditions. The board adopted a policy on this subject on January 13, 1999.

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

Process for Developing New Rule: Input from licensees and other interested parties will be obtained through series of notices and at least one public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Teresa Berntsen, Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, (360) 586-1641, fax (360) 704-4920, e-mail teb@liq.wa.gov.

January 15, 1999

Eugene A. Prince

Chair

WSR 99-04-003**PREPROPOSAL STATEMENT OF INQUIRY
LOTTERY COMMISSION**

[Filed January 21, 1999, 11:03 a.m.]

Subject of Possible Rule Making: WAC 315-04-190 Rules applicable to retailer compensation.

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 or adding rules governing retailer compensation.

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, (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.

January 11, 1999

Mary Jane Ferguson

Rules Coordinator

WSR 99-04-005**PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION**

[Filed January 21, 1999, 1:08 p.m.]

Subject of Possible Rule Making: Bingo 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: The bingo industry has requested changes as a way to stimulate bingo business. Changes to allow bingo operators to offer free games, such as the winners circle and pal games; reduce restrictions on gift certificates and promotional items; allow bingo operators to distribute coupons for free bingo cards to customers as prizes; and allow bingo players to accrue points by playing bingo and redeem the points for prizes, such as a trip.

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) 438-7654 ext. 301; or Susan Arland, Public Information Officer, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 374.

Meetings at the Ramada Governor House, 621 Capitol Way South, Olympia, WA 98501, (360) 352-7700, on February 11-12, 1999; at the Cavanaugh's Ridpath Hotel, West 1515 Sprague, Spokane, WA 99204, (509) 838-2711, on March 11-12, 1999; and at The Inn at Semi-ah-moo, 9565 Semiahmoo Parkway, Blaine, WA 98230, (360) 371-2000, on April 8-9, 1999.

January 21, 1999

Susan Arland

Public Information Officer

WSR 99-04-013**PREPROPOSAL STATEMENT OF INQUIRY
PUBLIC EMPLOYMENT
RELATIONS COMMISSION**

[Filed January 22, 1999, 2:42 p.m.]

Subject of Possible Rule Making: Mediation, grievance mediation, grievance arbitration, dispute resolution panel,

interest arbitration, fact finding, subpoena, and housekeeping changes to chapters 391-08, 391-55 and 391-65 WAC.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Proposed changes pursuant to Executive Order 97-02 will revise interest arbitration rules by requiring parties to submit to mediator a list of issues they believe should be advanced to hearing, allow waiver of partisan arbitrators and certain voluntary procedures if parties fail to act in timely manner, and codify agency procedure where a related unfair labor practice complaint is filed. Housekeeping items will make proper usage of terms such as "shall" and "submission."

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

Process for Developing New Rule: [No information supplied by agency.]

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

January 22, 1999
Marvin L. Schurke
Executive Director

WSR 99-04-028

**PREPROPOSAL STATEMENT OF INQUIRY
PIERCE COLLEGE**

[Filed January 25, 1999, 2:31 p.m.]

Subject of Possible Rule Making: Student rights and responsibilities policy, chapter 132K-16 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.50.140(13).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Address current issues related to student rights and responsibilities/code of conduct.

Remove student grievance section from the policy and establish it as a procedure.

Process for Developing New Rule: Convene a committee to review existing policy and recommend revisions.

Take revised draft to the following for input: Student governance bodies, student services council, Council for Academic Affairs, Office of the Attorney General, academic divisions, college cabinet.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mr. Ed Brewster, Executive Dean of Students, 9401 Farwest Drive S.W., Lakewood, WA 98498, (253) 964-6584, or Nancy Houck, Assistant, (253) 964-6581.

January 14, 1999
Edward Brewster
Executive Dean of Students

WSR 99-04-029

**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD FOR
COMMUNITY AND TECHNICAL COLLEGES**

[Filed January 26, 1999, 9:58 a.m.]

Subject of Possible Rule Making: WAC 131-16-450 Exceptional faculty awards trust fund.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 28B.50 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Bring rules in line with current practice, which were unclear in current WAC section.

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

Process for Developing New Rule: Normal rule-making process; may want to utilize expedited adoption process if possible.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ron Crossland or Claire Krueger, State Board for Community and Technical Colleges, 319 7th Avenue, P.O. Box 42495, Olympia, WA 98504-2495, (360) 753-7413.

January 22, 1999
Claire C. Krueger
Executive Assistant

WSR 99-04-042

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF TRANSPORTATION**

[Filed January 28, 1999, 8:49 a.m.]

Subject of Possible Rule Making: Chapter 468-12 WAC which integrates the policies and procedures of the State Environmental Policy Act (SEPA), chapter 43.21C RCW, into the programs, activities, and actions of the Department of Transportation.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 47.01.101.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Washington State Department of Transportation region staff have requested a review and update of chapter 468-12 WAC as appropriate.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Ecology, chapter 468-12 WAC implements chapter 197-11 WAC pursuant to RCW 43.21C.120.

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 Darryl Tinnerstet, Washington State

Department of Transportation, Environmental Affairs Office,
phone (360) 705-7486, fax (360) 705-6833.

January 26, 1999
Gerald E. Smith
Deputy Secretary, Operations

Department of Health to the Department of Social and Health
Services.

Kris Van Gorkom
Deputy Secretary

WSR 99-04-046
PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION

[Filed January 28, 1999, 11:18 a.m.]

Subject of Possible Rule Making: Amend chapter 180-77A WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.410.010 and 28A.305.130 (1) and (2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The amendments to chapter 180-77A WAC would recommend that colleges and universities and other agencies establishing vocational-technical teacher preparation programs use the criteria developed by the Vocational-Technical Professional Education Council as guidelines. The rules would also establish an advisory committee for vocational-technical teacher education programs which would provide program accountability.

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

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

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

January 28, 1999
Larry Davis
Executive Director

WSR 99-04-048
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

[Filed January 28, 1999, 1:10 p.m.]

This memo is notice that Department of Health is withdrawing the statement of inquiry for WAC 246-316-990 which was filed with the Code Reviser on February 2 [4], 1998, as WSR 98-04-091. This CR-101 is being withdrawn because of a change in the authorizing statute, RCW 18.20.040, which transferred all powers, functions, duties and personnel for the boarding homes program from the

WSR 99-04-050
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

[Filed January 28, 1999, 1:15 p.m.]

Subject of Possible Rule Making: Establishing new anti-trust review fees in chapter 246-25 WAC (formerly chapter 245-02 WAC).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.72.310.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In 1997, the legislature transferred both rule-making authority for antitrust reviews and the authority to enforce and administer rules. The department is given the authority to develop a fee schedule that will defray reasonable costs of the review or monitoring activities.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Department of Health is the licensing agency for health care facilities and providers. Program staff maintain an active interested parties list. All affected parties will receive information regarding meetings and opportunities to contribute to the rule-making process.

Process for Developing New Rule: Program staff will hold meetings with constituents and send informational mailings to elicit concerns and comments during the rule-making process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Janis Sigman, Certificate of Need Program, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 705-6632, fax (360) 705-6654, e-mail jrs0303@doh.wa.gov.

January 27, 1999
K. Van Gorkom
Deputy Secretary

WSR 99-04-054
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed January 29, 1999, 10:33 a.m.]

Subject of Possible Rule Making: WAC 388-434-0005 and any related chapters regarding eligibility reviews for cash assistance.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Presently the rules require a

review of eligibility for cash programs at least once every twelve months. The department plans to change this requirement to require a review of eligibility for cash programs at least once every six months.

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

Process for Developing New Rule: Parties identified as having an interest in the subject matter will be given the opportunity to review and comment on draft rules prior to publication in the Washington State Register. Other interested parties may comment on the proposed rule changes by contacting the department as described below or by participating in the public hearing. Draft rules will be reviewed by the ESA regulatory improvement team to ensure compliance with Executive Order 97-02. Rules will be adopted in accordance with DSHS policy and the Administrative Procedure Act.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michael Thomas, Program Manager, WorkFirst Division, Department of Social and Health Services, P.O. Box 45480, Olympia, WA 98504-5480, phone (360) 413-3098, e-mail THOMAMP@dshs.wa.gov, fax (360) 413-3482.

January 27, 1999
Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 99-04-055
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Division of Assistance Programs)
[Filed January 29, 1999, 10:36 a.m.]

Subject of Possible Rule Making: WAC 388-448-0001 Who is eligible for general assistance-unemployable, and related sections. The department is considering expanding exemptions to the incapacity decision process to include individuals approved for expedited Medicaid (GAX). We also intend to clarify that redeterminations require current medical documentation.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.005 (6)(e).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The amendment will allow the department to simplify the incapacity decision process by eliminating the need to complete the progressive evaluation process for individuals approved for GAX. It will also assure compliance with state law that requires eligibility based on clear objective medical evidence.

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

Process for Developing New Rule: DSHS welcomes public comment on this proposed amendment. Anyone inter-

ested in commenting should contact the staff person indicated below. After the rule is drafted, DSHS will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to everyone currently on the mailing list and anyone else who requests a copy. We will meet with interested parties in implementing this amendment.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Pamela Raymond, phone (360) 413-3087, 1009 College Street S.E., Lacey, WA, P.O. Box 45470, Olympia, WA 98504-5470, fax (360) 413-3493.

January 29, 1999
Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 99-04-057
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed January 29, 1999, 12:16 p.m.]

Subject of Possible Rule Making: Miscellaneous changes to chapters 296-24, 296-62, 296-155, 296-32, 296-52, and 296-301 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: On June 18, 1998, OSHA adopted miscellaneous changes to a number of federal rules within 29 CFR 1910 and 1926 (General Industry and Construction Standards). WISHA is reviewing standards related to these chapters to be at least as effective as OSHA, assure appropriate worker protection throughout the state and improve the clarity of these rules. Washington Administrative Codes that are affected (but not limited to) include chapter 296-24 WAC, General safety and health standards, chapter 296-62 WAC, General occupational health standards, chapter 296-155 WAC, Safety standards for construction work, chapter 296-32 WAC, Telecommunications, chapter 296-52 WAC, Possession and handling of explosives, and chapter 296-301 WAC, Textile industry.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: OSHA is the only other agency regulating this subject.

Process for Developing New Rule: The department must adopt rules that are at least as effective as OSHA rules as required by the OSHA/WISHA state plan agreement. Amendments will be proposed in response to the Federal Register notice, Volume 63, Number 117, published on June 18, 1998, (Standards Improvement (Miscellaneous Changes) for General Industry and Construction Standards; Paperwork Collection for Coke Oven Emissions and Inorganic Arsenic, Final Rule).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jennie Hays, WISHA Standards Project Manager, Department of Labor and Industries,

WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620, phone (360) 902-5523.

January 20, 1999
Gary Moore
Director

WSR 99-04-066
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed February 1, 1999, 12:45 p.m.]

Subject of Possible Rule Making: Update and review of chapter 16-125 WAC. Provisions were corrected by updating references and removing provisions that no longer are applicable to the industry regulated. Name was changed to include bulk milk tankers as they are also included under rule with bulk milk storage units for clarification.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.36.021.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To establish standards for installation and construction of bulk milk tanks and bulk milk tankers.

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

Process for Developing New Rule: Rule as amended will be sent to affected industry, Dairy Inspection Program Advisory Committee (DIPAC) and Food Safety Advisory Committee (FSAC) for review and comment.

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.

January 28, 1999
Candace A. Jacobs, DVM
Assistant Director

WSR 99-04-067
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed February 1, 1999, 12:47 p.m.]

Subject of Possible Rule Making: Review and update chapter 16-142 WAC, Perishable packaged food goods—Pull dating, to clear rule format.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 69.04.915.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To establish uniform standards for pull date labeling and safe storage conditions for perishable packaged food goods. It also informs the consumer of the expected length of shelf life for perishable packaged food goods in order to allow them a reasonable amount

of time to use the product under proper care and storage conditions.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state or federal agencies regulate pull dates for these products.

Process for Developing New Rule: Revised rule will be sent to affected industry, Dairy Inspection Program Advisory Committee (DIPAC) and Food Safety Advisory Committee (FSAC) for review and comment.

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.

January 28, 1999
Candace A. Jacobs, DVM
Assistant Director

WSR 99-04-076
PREPROPOSAL STATEMENT OF INQUIRY
LOTTERY COMMISSION

[Filed February 2, 1999, 11:47 a.m.]

Subject of Possible Rule Making: Chapter 315-04 WAC.

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 revising, amending, and/or repealing rules, in addition to adding new rules, applicable to retailer licensing. These changes would be to streamline and clarify the rules applicable to retailer licensing.

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.

February 2, 1999
Mary Jane Ferguson
Rules Coordinator

WSR 99-04-083
PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION

[Filed February 2, 1999, 3:45 p.m.]

Subject of Possible Rule Making: WAC 180-22-150 Educational service districts—Criteria for organization.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.310.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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

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

February 2, 1999

Larry Davis
Executive Director

WSR 99-04-084

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed February 2, 1999, 3:46 p.m.]

Subject of Possible Rule Making: WAC 180-40-215 Student rights.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.04.132.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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

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

February 2, 1999

Larry Davis
Executive Director

WSR 99-04-085

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed February 2, 1999, 3:47 p.m.]

Subject of Possible Rule Making: WAC 180-79A-380 Physical education—Subject area endorsement.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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

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

February 2, 1999

Larry Davis
Executive Director

WSR 99-04-086

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed February 2, 1999, 3:49 p.m.]

Subject of Possible Rule Making: WAC 180-29-095 Construction documents—Compliance with public works statutory provisions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 39.25 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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

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

February 2, 1999

Larry Davis
Executive Director

WSR 99-04-087

**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed February 2, 1999, 3:50 p.m.]

Subject of Possible Rule Making: WAC 180-78-155 Evidence of compliance with adequate resources program standard, 180-78-207 General knowledge required of all teacher, administrator, school counselor, school psychologist, and school social worker, and 180-78-210.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.70.005.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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

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

February 2, 1999

Larry Davis
Executive Director

WSR 99-04-088

**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed February 2, 1999, 3:51 p.m.]

Subject of Possible Rule Making: WAC 180-16-215 Minimum one hundred eighty school day year.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 28A.630 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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

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

February 2, 1999

Larry Davis
Executive Director

WSR 99-04-089

**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed February 2, 1999, 3:53 p.m.]

Subject of Possible Rule Making: WAC 180-55-085 Standards—Elementary and secondary—School health services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.305.130(6), 91-01-068.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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

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

February 2, 1999

Larry Davis
Executive Director

WSR 99-04-090

**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed February 2, 1999, 3:53 p.m.]

Subject of Possible Rule Making: WAC 180-41-035 Evacuation of buildings in sudden emergency—Emergency exit drills.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.600.200.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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

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

February 2, 1999

Larry Davis
Executive Director

WSR 99-04-091

**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed February 2, 1999, 3:55 p.m.]

Subject of Possible Rule Making: WAC 180-51-110 Equivalency credit for alternative learning experiences, non-high school courses, work experience, and challenges.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.05.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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

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

February 2, 1999

Larry Davis
Executive Director

WSR 99-04-092

**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed February 2, 1999, 3:56 p.m.]

Subject of Possible Rule Making: WAC 180-56-245 Specialized services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.305.130.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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

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

February 2, 1999

Larry Davis
Executive Director

WSR 99-04-094

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed February 3, 1999, 8:57 a.m.]

Subject of Possible Rule Making: Amending standards for apricots. Changes are being made to WAC 16-406-020, 16-406-030, and 16-406-050 and repealing WAC 16-406-001, no longer needed.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.17.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Respond to industry request

and concerns regarding uniformity in the packing and marketing requirements. Changes will improve and enhance the marketing of fresh Washington apricots. The consuming public will be served by improved product quality and uniformity while at the same time allowing product packaging the flexibility to be responsive to market changes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: USDA Marketing Order 922.

Process for Developing New Rule: This is at the request of the apricot industry, growers, shippers and packers. The department will be working with the industry association and other stakeholders and interested parties in the development of this rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jim Quigley, Program Manager, Washington State Department of Agriculture, Fruit and Vegetable Inspection Program, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1833, fax (360) 902-2085.

February 3, 1999

Robert W. Gore
Assistant Director

WSR 99-04-095

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed February 3, 1999, 9:09 a.m.]

Subject of Possible Rule Making: Application for certification for forest reproductive materials, WAC 16-319-041.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.49.005, 15.49.310, 15.49.370(3).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule contains a fee increase necessary to reflect the current cost of operating that portion of the seed certification program delegated by the director to the Washington State Crop Improvement Association.

Process for Developing New Rule: Working with industry associations and stakeholder groups.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Keith Pfeifer, Manager, Washington State Crop Improvement Association, 414 South 46th Avenue, Yakima, WA 98908, phone (509) 966-2234, fax (509) 966-2494, e-mail wscia@televar.com.

February 3, 1999

Julie C. Sandberg
Assistant Director

WSR 99-04-096

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed February 3, 1999, 9:10 a.m.]

Subject of Possible Rule Making: Application fee increases relating to buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum, and small grain, and changes in field pea and chickpea standards, WAC 16-316-474, 16-316-717, and 16-316-727.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.49.005, 15.49.310, 15.49.370(3).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These rules contain a fee increase necessary to reflect the current cost of operating that portion of the seed certification program delegated by the director to the Washington State Crop Improvement Association. Also included are changes to standards for certain crops.

Process for Developing New Rule: Working with industry associations and stakeholder groups.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Keith Pfeifer, Manager, Washington State Crop Improvement Association, 414 South 46th Avenue, Yakima, WA 98908, phone (509) 966-2234, fax (509) 966-2494, e-mail wscia@televar.com.

February 3, 1999

Julie C. Sandberg
Assistant Director

WSR 99-04-109

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed February 3, 1999, 10:57 a.m.]

Subject of Possible Rule Making: Amendments to chapter 180-82 WAC, Certificate endorsements and assignment of certificated personnel.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.410.010 and 28A.305.130(5).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The amendment to this chapter would add a technology endorsement as an endorsement available for teacher certificates.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA

98504-7206, fax (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact: Larry Davis at (360) 753-6715.

February 2, 1999

Larry Davis
Executive Director

WSR 99-04-112

**PREPROPOSAL STATEMENT OF INQUIRY
LIQUOR CONTROL BOARD**

[Filed February 3, 1999, 11:18 a.m.]

Subject of Possible Rule Making: Tax reporting and filing responsibilities for the manufacture of malt beverages.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 66.08.030, 66.24.280, 66.24.290.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Liquor Control Board would like to amend certain sections of chapter 314-20 WAC, in order to streamline the reporting requirements and filing process for beer taxes. Under these proposed changes, the reporting would be automated via an Internet application, and tax payment responsibilities would be moved from beer manufacturers to beer distributors, thus becoming consistent with the process for wine taxes.

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

Process for Developing New Rule: Per chapter 133, Laws of 1998. The agency will work with stakeholders during one or more public hearing(s).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Teresa Berntsen, Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, phone (360) 586-1641, fax (360) 704-4920, e-mail rules@liq.wa.gov.

February 3, 1999

Eugene Prince
Chairman

The agency will also review existing policies regarding added activities, and convert those that directly affect the public into rule form.

Process for Developing New Rule: Input from retail licensees, local governments, and other interested parties will be obtained through series of notices and at least one public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Teresa Berntsen, Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, phone (360) 586-1641, fax (360) 704-4920, e-mail teb@liq.wa.gov.

February 3, 1999

Eugene Prince
Chair

WSR 99-04-113

**PREPROPOSAL STATEMENT OF INQUIRY
LIQUOR CONTROL BOARD**

[Filed February 3, 1999, 11:19 a.m.]

Subject of Possible Rule Making: Added activities on a liquor licensed premises, WAC 314-16-180.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 66.08.030, 66.24.010.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 314-16-180 currently states a licensee must obtain prior board approval for any activities conducted on the premises outside of those inherent to the license privilege. Per Governor Locke's Executive Order on regulatory reform, the board will consider changes to WAC 314-16-180 to simplify the requirements for licensees to conduct added activities on their licensed premises.

WSR 99-04-006**EXPEDITED REPEAL****DEPARTMENT OF AGRICULTURE**

[Filed January 21, 1999, 2:28 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 16-228-320 Heptachlor treated grain seed—Definition and 16-228-330 Use and distribution.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Dannie McQueen, Agency Rules Coordinator, Washington State Department of Agriculture, Administrative Regulations Program, P.O. Box 42560, Olympia, WA 98504-2560.

Reason the Expedited Repeal of the Rule is Appropriate: The registration and commercial use of heptachlor was cancelled by the United States Environmental Protection Agency in 1988. The rule is obsolete.

January 21, 1999

Bob Arrington
Assistant Director

WSR 99-04-007**EXPEDITED REPEAL****DEPARTMENT OF AGRICULTURE**

[Filed January 21, 1999, 2:30 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 16-228-340, rules relating to ethylene dibromide (EDB) tolerances.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Dannie McQueen, Agency Rules Coordinator, Washington State Department of Agriculture, Administrative Regulations Program, P.O. Box 42560, Olympia, WA 98504-2560.

Reason the Expedited Repeal of the Rule is Appropriate: The rule is obsolete since federal action has made the distribution and use of EDB illegal. The United States Environmental Protection Agency cancelled the registration and use of EDB in 1989.

January 21, 1999

Bob Arrington
Assistant Director

WSR 99-04-017**EXPEDITED REPEAL****DEPARTMENT OF REVENUE**

[Filed January 22, 1999, 3:05 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 458-12-315 Timber and forest products—Valuation and 458-12-320 Timber and forest products—Ownership—Roads.

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: Alan R. Lynn, Department of Revenue, Legislation and Policy Division, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693.

Reason the Expedited Repeal of the Rule is Appropriate: WAC 458-12-315 and 458-12-320 provide limited information, incorrect cites to statutes or other rules, and do not reflect current law.

WAC 458-12-315 refers to RCW 84.40.030, which was amended and no longer provides information addressing the valuation of standing timber. The rule also refers to RCW 84.40.034, which was repealed. It discusses how the value of logs is determined by log market data, information currently provided in the stumpage value tables that the department publishes twice a year (WAC 458-40-660). The information provided by WAC 458-12-320 is of limited value. This rule also refers to WAC 458-12-325, which was previously repealed.

January 22, 1999

Claire Hesselholt, Rules Manager
Legislation and Policy Division

WSR 99-04-018**EXPEDITED REPEAL****DEPARTMENT OF REVENUE**

[Filed January 22, 1999, 3:07 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 458-65-020 Use of department forms, 458-65-030 Simultaneous reporting and remittance of unclaimed property, and 458-65-040 Maturity of automatically renewable instruments.

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: Alan R. Lynn, Department of Revenue, Legislation and Policy Division, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693.

Reason the Expedited Repeal of the Rule is Appropriate: These rules are obsolete and are no longer used by the department or those organizations required to report unclaimed

property. WAC 458-65-020 and 458-65-030 are in error because they fail to reflect the amendment of chapter 63.29 RCW by chapter 498, Laws of 1993. The information provided by WAC 458-65-040 is sufficiently explained in RCW 63.29.060.

January 22, 1999

Claire Hesselholt, Rules Manager
Legislation and Policy Division

WSR 99-04-019

EXPEDITED REPEAL

DEPARTMENT OF REVENUE

[Filed January 22, 1999, 3:08 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 458-20-157 Producers of poultry and hatching eggs, 458-20-206 Use tax, fuel oil, oil products, other extracted products, and 458-20-225 Pattern makers.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances; and other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Alan R. Lynn, Department of Revenue, Legislation and Policy Division, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693.

Reason the Expedited Repeal of the Rule is Appropriate: WAC 458-20-157 is unnecessary. The pertinent information is currently provided in two other rules, WAC 458-20-122 Sales of feed, seed, fertilizer spray materials and other tangible personal property for farm use and 458-20-210 Sales of agricultural products by farmers.

WAC 458-20-206 provides little information of value. The exemption cited in this rule (RCW 82.12.0263) is more clearly and completely discussed in WAC 458-20-121 Sales of heat or steam, etc., 458-20-134 Commercial or industrial use, and 458-20-178 Use tax.

WAC 458-20-225 provides incomplete information and is of little value. It does not address the sales and use tax exemptions available for manufacturing machinery and equipment (RCW 82.08.02565 and 82.12.02565). It also does not address the tax reporting requirements of the multiple activities tax credit system (RCW 82.04.440). Much of the information currently contained in this rule is provided in other rules issued by the department, including WAC 458-20-102 Resale certificates and 458-20-134 Commercial or industrial use.

January 22, 1999

Claire Hesselholt, Rules Manager
Legislation and Policy Division

WSR 99-04-031

EXPEDITED REPEAL

DEPARTMENT OF REVENUE

[Filed January 26, 1999, 1:21 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 458-50-010 Assessment of public utilities—Purpose—Definitions and 458-50-050 Access to books, records, and property.

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: Alan R. Lynn, Department of Revenue, Legislation and Policy Division, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693.

Reason the Expedited Repeal of the Rule is Appropriate: These rules do not provide any pertinent information that is not already provided in the statutes.

WAC 458-50-010 does not provide any important information regarding the valuation and apportionment of the operating property of public utilities, which is the subject of chapter 458-50 WAC. The information provided by WAC 458-50-050 is less complete and accurate than the information provided in RCW 84.12.240, the statute that this rule implements.

January 25, 1999

Claire Hesselholt, Rules Manager
Legislation and Policy Division

WSR 99-04-058

EXPEDITED REPEAL

DEPARTMENT OF TRANSPORTATION

[Filed January 29, 1999, 1:47 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 468-38-150 Flagpersons, 468-38-170 Amber lights on escort vehicles, and 468-38-210 Two-way radio.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances; and other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Barry Diseth, Motor Carrier Services, P.O. Box 47367, Olympia, WA 98502, fax (360) 664-9440.

Reason the Expedited Repeal of the Rule is Appropriate: All three of the WACs proposed for repeal have been incorporated into WAC 468-38-110 escort vehicle requirements, approved November 30, 1998.

January 28, 1999

Gerald E. Smith
Deputy Secretary, Operations

WSR 99-04-073
EXPEDITED REPEAL
DEPARTMENT OF
FINANCIAL INSTITUTIONS

[Filed February 2, 1999, 9:03 a.m.]

The Following Sections are Proposed for Expedited Repeal: All sections of chapter 50-16 WAC, Consumer Finance Act rules.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Statute on which the rule was based has been repealed and has not been replaced by another statute providing statutory authority for the rule.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Wayne Fralin, Director of Banks, Department of Financial Institutions, 210 11th Avenue S.W., Suite 300, P.O. Box 41200 (98504-1200), Olympia, WA 98504.

Reason the Expedited Repeal of the Rule is Appropriate: Chapter 50-16 WAC is based on RCW 31.04.150 and chapter 31.08 RCW, which were repealed during the 1991 legislative session. (Repeals of RCW 31.04.150 and chapter 31.08 RCW were effective as of January 1, 1992, and January 1, 1993, respectively.)

February 3 [2], 1999
 John L. Bley
 Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 50-16-020	Recordkeeping—General.
WAC 50-16-025	Allocation of expenses to consumer finance business.
WAC 50-16-030	Books, files and accounting records required.
WAC 50-16-035	Forms.
WAC 50-16-040	Litigation record.
WAC 50-16-045	Loans.
WAC 50-16-050	Computation of charges.
WAC 50-16-055	Rebate of precomputed charges.
WAC 50-16-060	Splitting loans prohibited.
WAC 50-16-065	Statement to borrower—Receipt.
WAC 50-16-070	Advertising.
WAC 50-16-075	Restrictions on insurance.
WAC 50-16-080	Delivery of policy or evidence to borrower—Master policy required.

WAC 50-16-085

Rebate of credit life insurance charge.

WAC 50-16-090

File for official correspondence and reports.

WAC 50-16-095

Knowledge of the law and regulations.

WAC 50-16-100

Hours of business.

WAC 50-16-105

Insufficient funds charge.

EXPEDITED REPEAL



WSR 99-04-012
PROPOSED RULES
LOTTERY COMMISSION
 [Filed January 22, 1999, 10:56 a.m.]

Date of Intended Adoption: March 19, 1999.
 January 22, 1999
 Mary Jane Ferguson
 Rules Coordinator

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-22-090.

Title of Rule: WAC 315-33A-060 Quinto and 315-34-060 Lotto, time of drawings.

Purpose: To permit up to one Quinto and one Lotto drawing per day.

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: See Purpose above.

Reasons Supporting Proposal: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Mary Jane Ferguson, Rules Coordinator, Olympia, (360) 753-1947; Implementation and Enforcement: Merritt D. Long, Director, Olympia, (360) 753-3330.

Name of Proponent: Washington State Lottery Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The amendments to WAC 315-33A-060 and 315-34-060 will permit up to one drawing per day for the on-line games of Quinto and Lotto, respectively.

Proposal Changes the Following Existing Rules: The amendments to WAC 315-33A-060 and 315-34-060 will permit up to one drawing per day for the on-line games of Quinto and Lotto, respectively. Current rules for each game permit drawings only on Wednesday and Saturday.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The lottery has considered whether these rules are subject to the Regulatory Fairness Act chapter 19.85 RCW, and has determined that they are not for the following reasons: (1) The rules have no economic impact on business' cost of equipment, supplies, labor or administrative costs. The rules are designed to establish rules and procedures for the playing of instant lottery games; and (2) the rules will have a negligible impact, if any, on business because they are interpretive. They have been promulgated for the purpose of stating policy, procedure and practice and do not include requirements for forms, fees, appearances or other actions by business.

RCW 34.05.328 does not apply to this rule adoption. Said section does not apply to these proposed rules because they are not proposed by one of the listed agencies. As the rules are merely interpretive, the lottery does not voluntarily apply this section.

Hearing Location: 814 Fourth Avenue, Olympia, Washington, on March 19, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Mary Jane Ferguson by March 18, 1999, (360) 753-1947.

Submit Written Comments to: Mary Jane Ferguson, Lottery, fax (360) 586-6586, by March 18, 1999.

AMENDATORY SECTION (Amending WSR 93-19-052, filed 9/10/93, effective 10/11/93)

WAC 315-33A-060 Drawings. (1) The Quinto drawing pursuant to this chapter shall be held ~~((once each Saturday evening beginning November 2, 1991, and once each Wednesday evening beginning November 17, 1993, except that the director may change the drawing schedule if Saturday or Wednesday is a holiday))~~ up to once every twenty-four hours, at the discretion of the director.

(2) The drawing will be conducted by lottery officials.

(3) Each drawing shall determine, at random, five winning sets with the aid of mechanical drawing equipment which shall be tested before and after that drawing. Any drawn sets are not declared winners until the drawing is certified by the lottery. The winning sets shall be used in determining all Quinto winners for that drawing. If a drawing is not certified, another drawing will be conducted to determine actual winners.

(4) The drawing shall not be invalidated based on the liability of the lottery.

AMENDATORY SECTION (Amending WSR 90-19-048, filed 9/14/90, effective 10/15/90)

WAC 315-34-060 Drawings. (1) The Lotto drawing shall be held ~~((each week on Wednesday and Saturday evenings beginning October 24, 1990, except that the director may change the drawing schedule if Wednesday or Saturday is a holiday))~~ up to once every twenty-four hours, at the discretion of the director.

(2) The drawing will be conducted by lottery officials.

(3) Each drawing shall determine, at random, six winning numbers with the aid of mechanical drawing equipment which shall be tested before and after that drawing. Any drawn numbers are not declared winning numbers until the drawing is certified by the lottery. The winning numbers shall be used in determining all Lotto winners for that drawing. If a drawing is not certified, another drawing will be conducted to determine actual winners.

(4) The drawing shall not be invalidated based on the liability of the lottery.

WSR 99-04-014
PROPOSED RULES
DEPARTMENT OF REVENUE
 [Filed January 22, 1999, 3:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-11-083.

Title of Rule: WAC 458-20-216 Successors, quitting business.

Purpose: To explain the circumstances under which a person is considered a successor to a person quitting business. Successors are liable for the payment of any outstanding tax liability incurred by the person to whom the successor succeeds.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.04.180 and 82.32.140.

Summary: The rule is being amended to reflect changes in the law since the last amendment in 1970. One change is the definition of successor. Another change is the elimination of the requirement to report bulk transfers to the Department of Revenue. The rule is also being amended to reflect the decision in a Court of Appeals case, *Palmer v. Washington*, 82 Wn. App. 367 (1996), regarding the successor liability of secured creditors who repossess property and then operate the business.

Reasons Supporting Proposal: To incorporate statutory changes and to reflect a Court of Appeals decision.

Name of Agency Personnel Responsible for Drafting: Greg Potegal, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 753-1971; **Implementation:** Claire Hesselholt, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 753-3446; and **Enforcement:** Russell Brubaker, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule explains the tax liability of persons quitting business and successors to those persons. The law requires a taxpayer to remit any outstanding tax liability to the Department of Revenue within ten days of quitting business. If this tax is not paid by the taxpayer, any successor to the taxpayer becomes liable for the outstanding tax. This rule explains under what circumstances a person is considered a successor to a person quitting business. It explains the successor's responsibility for payment of an outstanding tax liability incurred by the person quitting business. The rule also provides examples illustrating when successorship does or does not apply.

Proposal Changes the Following Existing Rules: This is an amendment to WAC 458-20-216. The rule is being revised to reflect two statutory changes. One is the repeal of the bulk transfer provisions of the Uniform Commercial Code. Those provisions provided a means by which successors notified the Department of Revenue of their acquisition of the assets of a business. The revised rule eliminates reference to the bulk transfer provisions and provides another method for notification to the Department of Revenue. The other statutory change is a change to the definition of successor. The revised rule incorporates the current statutory definition. The revised rule also reflects a Court of Appeals decision concerning the liability of a secured creditor who repossesses assets from a debtor.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No burden is imposed upon taxpayers that is not already imposed by statute.

The effect of the changes to the existing rule is to bring the rule into conformity with existing laws, to provide clarity, and to add definitions to assist taxpayers in understanding their legal obligation.

RCW 34.05.328 does not apply to this rule adoption. This is not a significant legislative rule. It is an interpretive rule that sets forth the Department of Revenue's interpretation of the statutes dealing with the liability of successors.

Hearing Location: Evergreen Plaza Building, 711 Capitol Way, Second Floor Conference Room, Olympia, WA, on March 10, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Virginia Sunde by March 1, 1999, TDD 1-800-451-7985 or (360) 586-8640.

Submit Written Comments to: Greg Potegal, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail gregp@dor.wa.gov, by March 10, 1999.

Date of Intended Adoption: March 22, 1999.

January 22, 1999

Claire Hesselholt, Rules Manager
Legislation and Policy Division

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-216 Successors, quitting business. (1)

Introduction. RCW 82.32.140 requires a taxpayer to remit any outstanding tax liability to the department of revenue (department) within ten days of quitting business. If this tax is not paid by the taxpayer, any successor to the taxpayer becomes liable for the outstanding tax. This rule explains under what circumstances a person is considered a successor to a person quitting business. It explains the successor's responsibility for payment of an outstanding tax liability incurred by the person quitting business. This rule also provides examples illustrating when successorship does or does not apply.

(2) "Successor" defined. For purposes of this rule, the term "successor" means:

(a) Any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, a major part of the materials, supplies, merchandise, inventory, fixtures, or equipment of the taxpayer. RCW 82.04.180. Persons acquiring only intangible assets such as copyrights and trademarks are not "successors."

(i) A person is a successor if he or she acquires a major part of the taxpayer's materials, supplies, merchandise, inventory, fixtures, or equipment in bulk, whether he or she operates the business or not. A person acquires a "major part" of the materials, supplies, merchandise, inventory, fixtures, or equipment if he or she acquires more than fifty percent of the fair market value of any such property at the time of conveyance.

(ii) However, persons who acquire a major part of a taxpayer's materials, supplies, merchandise, inventory, fixtures, or equipment through insolvency proceedings or regular legal proceedings to enforce a lien, security interest, or judgment,

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or by repossession under a security agreement are not successors.

(b) Any person obligated to fulfill the terms of a contract as a guarantor of a defaulting contractor is deemed a successor to that contract. RCW 82.04.180.

(3) **Responsibility for outstanding tax liability.** Whenever ~~((any))~~ a taxpayer quits business, sells out, exchanges or otherwise disposes of his or her business ~~((or his stock of goods)),~~ any tax ~~((payable hereunder))~~ administered by the department and which the taxpayer is liable for shall become immediately due and payable ~~((, and such)).~~ The taxpayer shall, within ten days ~~((thereafter, make a))~~ of quitting, selling out, exchanging, or otherwise disposing of the business, complete a tax return and pay the tax due. ~~((Any person who becomes a successor to such business shall become liable for the full amount of the tax and))~~ RCW 82.32.140.

(a) A successor shall withhold from the purchase price a sum sufficient to pay any tax due from the taxpayer until ~~((such time as))~~ the taxpayer ~~((shall))~~ produces a ~~((receipt))~~ statement of tax status from the department ~~((of revenue))~~ showing either no tax is due or payment in full of any tax due ~~((or a certificate that no tax is due)).~~ If the tax is not paid by the taxpayer within ten days from the date of sale, exchange, or disposal of the business, the ~~((purchaser or))~~ successor shall become liable for the payment of the full amount of tax. RCW 82.32.140.

(b) The payment ~~((thereof))~~ of the seller's tax liability by the ~~((purchaser or))~~ successor shall ~~((, to the extent thereof,))~~ be deemed a payment upon the purchase price. If ~~((such))~~ the sum of the payment to the department plus any payments made, directly or indirectly, to the seller is greater in amount than the purchase price, the amount of the difference shall become a debt due the ~~((purchaser or))~~ successor from the taxpayer. RCW 82.32.140.

~~((A successor shall not be liable for any tax due from the person from whom he has acquired a business or stock of goods, if he gives written notice to the department of such acquisition and no assessment is issued by the department within six months of receipt of such notice against the former operators of the business and a copy thereof mailed to such successors.~~

The word "successor" means any person who shall, through direct or mesne conveyance, purchase or succeed to the business, or portion thereof, or the whole or any part of the stock of goods, wares, merchandise or fixtures or any interest therein of a taxpayer quitting, selling out, exchanging or otherwise disposing of his business. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

The work "successor" includes all persons who acquire the taxpayer's equipment or merchandise in bulk, whether they operate the business or not, unless the property is acquired through insolvency proceedings or regular legal proceedings to enforce a lien, security interest, judgment, or repossession under a security agreement.) (c) A successor is not liable for any tax due from the taxpayer if:

(i) The successor provides written notice of the acquisition to the department; and

(ii) Within six months of receiving the written notice, the department has not issued a tax assessment against the taxpayer and mailed a copy of a notice of tax due to the successor. RCW 82.32.140.

(d) Written notice of the acquisition must be sent either to Department of Revenue, Taxpayer Account Administration, P.O. Box 47476, Olympia, Washington 98504-7476 or to one of the department's field offices. The six-month period begins upon the department's receipt of the written notice. The written notice must contain the following information:

(i) The taxpayer's name, business name, address, and UBI number if known;

(ii) The date of the acquisition;

(iii) A statement that the successor acquired assets of the taxpayer who was quitting business; and

(iv) A description of the assets acquired.

(4) **Examples.** The following factual situations illustrate the application of ~~((the foregoing:))~~ successorship. These factual situations should be used only as a general guide. The successorship status of each situation depends on all the facts and circumstances.

~~((1))~~ (a) Taxpayer ~~((sells))~~ quits business and ~~((stock of goods))~~ sells all equipment, fixtures, and inventory to one purchaser. The taxpayer may be either solvent or insolvent at the time of sale. The purchaser is ~~((the))~~ a successor.

~~((2))~~ Taxpayer sells stock of goods in bulk. Purchaser is the successor, even though taxpayer continues in business through purchase of new stock.

~~((3))~~ (b) Taxpayer quits business, selling only intangible assets consisting of customer lists and a covenant not to compete. The purchaser is not a successor.

(c) Taxpayer sells business, including all fixtures ~~((, good will, etc.))~~ and equipment to ~~((one party))~~ Purchaser A, and ~~((his stock of goods))~~ all inventory to ~~((another))~~ Purchaser B. Both purchasers are successors.

~~((4))~~ Taxpayer sells one branch of the business and stock of goods, and continues to carry on his business at other locations. Purchaser is successor to the portion of the business purchased and liable for any tax incurred in the operation of that business.

~~((5))~~ (d) Taxpayer sells business, including all fixtures, equipment, and inventory in the following percentages of fair market value to three purchasers:

PURCHASER A	PURCHASER B	PURCHASER C
55% of fixtures	25% of fixtures	20% of fixtures
30% of equipment	30% of equipment	40% of equipment
30% of inventory	55% of inventory	15% of inventory

Purchaser A is a successor because it has acquired a major part, 55% of the fair market value, of the fixtures of the taxpayer. Purchaser B is a successor because it has acquired a major part, 55% of the fair market value, of the inventory of the taxpayer. Purchaser C is not a successor because it has not acquired a major part of any of the categories of assets sold by the taxpayer.

(e) Taxpayer obtains a loan from a financial institution to purchase equipment, fixtures, and inventory. The financial institution secures the loan by taking a security interest in the equipment, fixtures, and inventory. Taxpayer quits business.

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leaving the equipment, fixtures, and inventory behind. The financial institution repossesses these items. The financial institution is not a successor.

(f) Taxpayer purchases all equipment and inventory under a line of credit extended by a bank and guaranteed by a third party. The third party perfects a security interest in the equipment and inventory. Taxpayer quits business, surrendering the equipment and inventory to the third party guarantor. The third party guarantor is not a successor.

(g) Taxpayer leaves business, including fixtures ((and stock of goods)), materials and inventory, which ((his) the landlord holds for unpaid rent. The landlord ((will be a successor unless he proceeds to foreclose his landlord's lien by posting notice and holding a sale by the sheriff.

(a) If the landlord, instead of foreclosing his lien, takes a bill of sale to all of the taxpayer's interest in the business or stock of goods in satisfaction of rent, he is a successor.

(b) If the landlord fails to foreclose his lien and sells the fixtures or stock of goods and the purchaser continues the business or a similar business, the purchaser is a successor.

(c) If the taxpayer does not leave any fixtures or stock of goods and the landlord engages in a like business in the same location or rents to a third person, neither the landlord nor the third person is a successor.

(6)) forecloses the landlord's lien using the summary foreclosure provisions of RCW 60.10.030, or holds a foreclosure sale by the sheriff, or accepts a bill of sale in satisfaction of the landlord's lien for rent created by RCW 60.72.010. The landlord is not a successor.

(h) Taxpayer purchases ((business,)) all equipment((, or stock of goods)) and inventory under a security agreement ((and)).

(i) If the property is repossessed by the vendor, the vendor is not a successor.

((a) If the vendor sells to a third person who continues the business, the third person is not a successor.

(b)) (ii) If the taxpayer sells his or her equity under the security agreement to a third person, the third person is a successor.

((c)) (iii) If the ((property)) equipment and inventory is not repossessed and the vendor buys back the interest of the taxpayer without following the summary foreclosure provisions of RCW 60.10.030, the vendor is a successor((-and any third person who purchases the same from such vendor and continues the business is also a successor)).

((7)) (i) Taxpayer dies or becomes bankrupt, goes into receivership, or makes an assignment for the benefit of creditors. ((a)) The executor, administrator, trustee, receiver, or assignee is not a successor but stands in the place of the taxpayer and is responsible for payment of tax out of the proceeds derived upon disposition of the assets. ((b)) A purchaser from the executor, administrator, trustee, receiver, or assignee is not a successor, unless under the terms of the purchase agreement ((he)) the purchaser assumes and agrees to pay taxes and/or lien claims.

((8)) (j) Taxpayer is a contractor and is required to post a bond to insure completion of the contract. Taxpayer defaults on the contract and the bonding company completes it. The bonding company is a successor to the contractor to the extent of the contractor's liability for that particular con-

tract and is also liable for taxes incurred in the completion of the contract.

~~((Bulk transfers. Under chapter 62A.6 RCW persons whose principal business is the sale of merchandise from stock (including manufacturers) who transfer~~

~~(1) A major part of the materials, supplies, merchandise or other inventory of the business; or~~

~~(2) All or substantially all of the equipment of the business are required to furnish to the transferee a sworn list of all creditors, showing their names, addresses, and amounts owed. The parties (both the transferor and transferee) are then required to prepare a schedule of property being transferred, the schedule to be sworn to by the transferor. The list of creditors and schedule of property must be~~

~~(a) Preserved by the transferee for 6 months available for inspection and copying by any creditor;~~

~~(b) Filed by the transferee with the county auditor, and~~

~~(c) Served by the transferee on the department of revenue.~~

~~In addition to the foregoing, the transferee must, at least 10 days prior to taking possession of the goods or making payment for them, give notice of the transfer to~~

~~(1) All persons shown on the list of creditors;~~

~~(2) Any other persons known to hold or assert claims against the transferor, and~~

~~(3) The department of revenue.~~

~~The notice to creditors must also be filed with the county auditor and shall state~~

~~(1) That a bulk transfer is about to be made;~~

~~(2) Names and business addresses of the transferor and transferee;~~

~~(3) Whether debts of the transferor will be paid in full as they fall due and if so (a) the location and general description of the property to be transferred, (b) the estimated total of the transferor's debts, and (c) certain other information specified by RCW 62A.6-107.~~

~~Revised June 1, 1970.)~~

WSR 99-04-015

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed January 22, 1999, 3:02 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-14-127.

Title of Rule: WAC 458-20-222 Veterinarians.

Purpose: The rule provides guidance to veterinarians and others who provide services to live animals relative to the appropriate manner for collecting and/or paying the business and occupation, retail sales, and use taxes.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.04.050, 82.04.250, and 82.32.290 (as they apply to veterinarians and others providing services to live animals).

Summary: This rule explains the tax reporting responsibilities of veterinarians. The proposed amendment to the existing rule provides clear language, along with examples,

of the appropriate manner for collecting and paying B&O, retail sales and use tax by veterinarians and others who provide services for live animals. It explains which tax is owed, by whom, and what classification of B&O tax is appropriate.

Reasons Supporting Proposal: The veterinarian association has requested the department revise this rule to clarify the taxability of items dispensed by veterinarians. The proposed amendments provide this clarification.

Name of Agency Personnel Responsible for Drafting: James A. Winterstein, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 586-4283; **Implementation:** Claire Hesselholt, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 753-3446; and **Enforcement:** Russell Brubaker, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule explains the tax-reporting responsibilities of veterinarians and others who provide services for live animals. The department has received a request to revise the current rule to provide clearer guidance to veterinarians and others in determining which tax is owed, by whom, and what classification of business and occupation tax (B&O) is appropriate. This proposed amendment to the existing rule provides clear language, along with examples, of the appropriate manner for collecting and paying B&O, retail sales, and use tax by veterinarians and others who provide services for live animals. The rule also clearly explains the taxability of items of personal property dispensed by veterinarians.

Proposal Changes the Following Existing Rules: This is a revision to an existing rule. WAC 458-20-222 was revised to make it more comprehensive, to use a format that is easier to follow, and to provide examples of various situations explaining how the taxes are applied. The rule more clearly explains the manner of taxing items of personal property dispensed by veterinarians.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The amendments do not impose any new or additional burdens or administrative responsibilities that are not already required by statute.

RCW 34.05.328 does not apply to this rule adoption. This rule is an interpretive rule as defined in RCW 34.05.328 (5)(c)(ii).

Hearing Location: Evergreen Plaza Building, 711 Capitol Way, Olympia, WA, 2nd Floor Conference Room, on March 9, 1999, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Virginia Sunde by February 23, 1999, TDD 1-800-451-7985 or (360) 586-8640.

Submit Written Comments to: James A. Winterstein, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail JimWi@dor.wa.gov, by March 9, 1999.

Date of Intended Adoption: March 19, 1999.

January 22, 1999

Claire Hesselholt, Rules Manager
Legislation and Policy Division

AMENDATORY SECTION (Amending Order ET 83-1, filed 3/30/83)

WAC 458-20-222 Veterinarians. (~~Veterinarians are primarily engaged in the business of rendering professional services, although many veterinarians, in addition to such services, also sell medicines and supplies for use in the care of animals.~~

Business and Occupation Tax

~~Taxable under the retailing classification upon gross sales of medicine and supplies when such articles are sold for a specific charge and not used by the veterinarian in the rendition of services.~~

~~Taxable under the service and other business activities classification upon gross income derived from the rendition of professional services and from the boarding and training of animals.~~

Retail Sales Tax

~~Veterinarians purchase medicines, bandages, splints and other supplies primarily for use by them in rendering professional services. Sales of such articles to veterinarians are retail sales and the retail sales tax applies thereto.~~

~~However, veterinarians are required to collect the retail sales tax when such articles are sold by them for a specific charge and not in connection with the rendition of a professional service.~~

~~Sales of semen for use in the artificial insemination of livestock are exempt from sales tax.~~

~~(See WAC 458-20-102 on resale certificates, particularly that portion under the heading purchases for dual purpose.))~~ **(1) Introduction.** This rule explains Washington's business and occupation (B&O), retail sales, and use tax applications to sales and services provided by veterinarians. It explains the tax liability resulting from the performance of professional services and the sale of medicines and supplies for use in the care of animals. This rule also explains the tax liability of persons who provide other services for live animals including grooming, boarding, training, artificial insemination, and stud services.

(2) Business and occupation tax. Persons providing services for live animals are subject to the B&O tax as follows:

(a) Service and other activities. The service and other activities B&O tax applies to the gross income derived from veterinary services. For purposes of this rule, "veterinary services" includes the diagnosis, cure, mitigation, treatment, or prevention of disease, deformity, defect, wounds, or injuries of animals. It also includes the administration of any drug, medicine, method or practice, or performance of any operation, or manipulation, or application of any apparatus or appliance for the diagnosis, cure, mitigation, treatment, or prevention of any animal disease, deformity, defect, wound,

or injury. "Veterinary services" does not include the therapeutic use of an item of personal property opened and partly administered by the veterinarian or by an assistant under his or her direction, and taken by the customer for further administration by the customer to the animal, provided the charge for the item is separately stated on the invoice.

(i) The gross income derived from veterinary services includes the amount paid by a customer for any drug, medicine, apparatus, appliance, or supply administered by the veterinarian or by an assistant under his or her direction, even when the charge is separately stated on the invoice from charges for other veterinary services.

(ii) The service and other activities B&O tax applies to the gross income derived from grooming, boarding, training, artificial insemination, stud services, or other services provided to live animals. However, if the person providing these services also sells tangible personal property to a consumer for a separate and distinct charge, the charge made for the tangible personal property is subject to the retailing classification of B&O tax.

(b) **Retailing.** The retailing classification of B&O tax applies to the gross income from the sale of drugs, medicines, or other substances or items of personal property to consumers when the sale is not part of veterinary services. The retailing classification applies only when the veterinarian does not administer, or only administers part of the drug, medicine, or other substance or item of personal property to the animal with further administration to be completed by the customer. Adequate records must be kept by the veterinarian to distinguish drugs, medicines, or other substances or items of personal property that are administered as part of veterinary services from those that are sold at retail. The retailing classification also applies to gross income from the sale of tangible personal property for which there is a separate and distinct charge, when sold by persons providing grooming, boarding, training, artificial insemination, stud services, or other services for live animals.

(3) **Retail sales tax.** The retail sales tax applies to all the retail sales identified under subsection (2) of this rule, unless a specific exemption applies.

(a) **Sales to veterinarians and others who provide services to live animals.** Sales of tangible personal property to veterinarians for use or consumption by them in performing veterinary services are retail sales upon which the retail sales tax must be collected. Such sales include, among others, sales of medicines, bandages, splints and other supplies primarily for use by veterinarians in performing their professional services. Sales of tangible personal property to persons who provide grooming, boarding, training, artificial insemination, stud services, or other services for live animals for use or consumption by those persons in performing their services are also retail sales upon which the retail sales tax must be collected.

Sales to veterinarians and others who purchase tangible personal property for the purpose of resale in the regular course of business without intervening use by the buyer are sales at wholesale and not subject to the retail sales tax, provided the buyer presents the seller with a resale certificate. Refer to WAC 458-20-102 (Resale certificates) for more information regarding the use of resale certificates, and par-

ticularly the subsection of that rule regarding purchases for dual purposes.

(b) **Sales to consumers.** Tangible personal property sold by a veterinarian to a consumer that is carried away by or left with the consumer is a retail sale and the retail sales tax must be collected. Items of personal property include those that the veterinarian may have opened and used for therapy but were taken by the consumer to complete the therapy. The tax applies whether the tangible personal property was sold at the time the professional services were performed or was sold subsequently, provided the charge for the item is separately stated. Sales to a consumer of tangible personal property by a person who provides other than veterinary services to live animals and who separately states the charges, are subject to retail sales tax and the retail sales tax must be collected. (See WAC 458-20-122 for additional information regarding sales of feed to farmers.)

(c) **Exemptions.** A retail sales tax exemption is available for sales of feed for purebred livestock used for breeding purposes, provided the seller obtains a completed purebred livestock exemption certificate from the buyer. Also exempt are sales of semen for use in the artificial insemination of livestock. These sales remain subject to the retailing B&O tax.

(4) **Use tax.** The use tax complements the retail sales tax by imposing a tax of like amount upon the use within this state as a consumer of any tangible personal property purchased at retail, where the user has not paid retail sales tax with respect to the purchase of the property used. (See also WAC 458-20-178.) If the seller fails to collect the appropriate retail sales tax, the purchaser is required to pay the retail sales or use tax directly to the department unless the purchase and/or use is exempt from tax. Complementary use tax exemptions are available for the use of those items identified in subsection (3)(c) of this rule. Veterinarians and others who provide services to live animals are required to pay use tax on any samples that they acquire or give away unless retail sales tax or use tax has been previously paid on these samples.

(5) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax status of other situations must be determined after a review of all of the facts and circumstances.

(a) A dog owner brings her dog to a veterinarian for professional services. The dog has multiple wounds and a broken leg. The veterinarian sets the broken bone and uses a cast and other appropriate therapeutic medicines on the dog in the course of treatment. The veterinarian also applies some salve to the wounds and gives the remainder of the salve to the dog's owner for application over the next few days. The veterinarian segregates the charges for the veterinary services, including the cast materials, and the medicines. The charge for the salve is also separately stated on the billing invoice. The gross income for the veterinary services is subject to the service and other activities B&O tax classification. This includes the charges for the cast materials and the medicines. The charge for the salve is considered a retail sale, and subject to the retailing B&O and retail sales taxes. If the veterinarian had previously paid sales or use tax on the salve, he or

she is allowed a tax paid at source deduction (see also the discussion of tax paid at source deductions in WAC 458-20-102).

(b) AB boards other person's horses for a fee. When AB bills the customer, AB separately lists the charges for the boarding services and the feed. The gross income received by AB for boarding services is subject to B&O tax under the service classification. The charges for the feed are subject to the retailing B&O and retail sales taxes. However, a retail sales tax exemption is available for any sales of feed for purebred livestock, if the livestock is used for breeding purposes and AB obtains a completed purebred livestock exemption certificate from the customer.

(c) CD trains and boards dogs for various lengths of time. CD bills the customer a lump sum amount for the training and boarding, including feed for the dogs. The gross income received by CD is subject to B&O tax under the service classification. CD must pay retail sales tax or use tax on the feed it purchases for the dogs.

(d) EF is a farrier and shoes horses for others. When EF performs this service, he lists a separate charge on the invoice for the horseshoes. The charge for the horseshoeing service is subject to B&O tax under the service classification, and the separate charge for the horseshoes is subject to the retailing B&O and retail sales taxes. EF's purchases of the horseshoes are purchases for resale and not subject to the retail sales tax.

WSR 99-04-022
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed January 22, 1999, 3:13 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-19-079.

Title of Rule: WAC 458-20-261 Exemptions and credits for ride sharing, public transportation, and nonmotorized commuting.

Purpose: To explain the circumstances under which persons may claim tax exemptions and credits related to ride sharing.

Statutory Authority for Adoption: RCW 82.32.300, 82.04.4453, and 82.16.048.

Statute Being Implemented: RCW 82.04.355, 82.04.4453, 82.04.4454, 82.04.4455, 82.08.0287, 82.12.0282, 82.16.047, 82.16.048, and 82.16.049.

Summary: The rule is being adopted to describe the sales tax, use tax, business and occupation tax, and public utility tax exemptions which apply in connection with ride sharing activities. It describes the business and occupation (B&O) tax and public utility tax credit programs available to employers who provide financial incentives for employees to use ride sharing, public transportation, and nonmotorized commuting. It explains the procedures used to claim the credits.

Reasons Supporting Proposal: The rule will inform taxpayers about the tax benefits associated with ride sharing. RCW 82.04.4453 and 82.16.048 provide that the Department

of Revenue will adopt a rule to tell taxpayers how to claim credits against the B&O tax and public utility tax for financial incentives paid to or on behalf of employees.

Name of Agency Personnel Responsible for Drafting: Greg Potegal, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 753-1971; Implementation: Claire Hesselholt, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 753-3446; and Enforcement: Russell Brubaker, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule explains the circumstances under which persons may claim tax exemptions and credits related to ride sharing. The rule describes the sales, use, B&O, and public utility tax exemptions which apply in connection with ride sharing activities. It describes the B&O and public utility tax credit programs available to employers who provide financial incentives for employees to use ride sharing, public transportation, and nonmotorized commuting. The rule also explains the procedures to be used to claim the B&O and public utility tax credits.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule does not impose a responsibility or require a small business to perform something that is not already required by law.

RCW 34.05.328 does not apply to this rule adoption. This is not a significant legislative rule. It is an interpretive rule that sets forth the Department of Revenue's interpretation of the statutes dealing with ride share tax incentives.

Hearing Location: Evergreen Plaza Building, 711 Capitol Way, Second Floor Conference Room, Olympia, WA, on March 17, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Virginia Sunde by March 10, 1999, TDD 1-800-451-7985 or (360) 586-8640.

Submit Written Comments to: Greg Potegal, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail gregp@dor.wa.gov, by March 17, 1999.

Date of Intended Adoption: March 29, 1999.

January 22, 1999
Claire Hesselholt, Rules Manager
Legislation and Policy Division

NEW SECTION

WAC 458-20-261 Exemptions and credits for ride sharing, public transportation, and nonmotorized commuting. (1) **Introduction.** This section explains the various tax credits and exemptions which apply in connection with ride sharing, public transportation, and nonmotorized commuting.

(2) **Definitions.** For purposes of this section, the following definitions apply, unless otherwise required by the context.

PROPOSED

(a) "Ride sharing" and "commuter ride sharing" mean a car pool or van pool arrangement whereby one or more fixed groups not exceeding fifteen persons each including the drivers, and (i) not fewer than five persons including the drivers, or (ii) not fewer than four persons including the drivers where at least two of those persons are confined to wheelchairs when riding, are transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment. The transportation must be between their places of abode or termini near such places, and their places of employment or educational or other institutions, each group in a single daily round trip where the drivers are also on the way to or from their places of employment or educational or other institution. The terms include ride sharing on Washington state ferries.

(b) "Ride sharing for persons with special transportation needs" means an arrangement whereby a group of persons with special transportation needs, and their attendants, is transported by a public social service agency or a private, nonprofit transportation provider as defined in RCW 81.66.010(3) in a passenger motor vehicle as defined by the department of licensing to include small buses, cutaways, and modified vans not more than twenty-eight feet long. The driver need not be a person with special transportation needs.

(c) "Persons with special transportation needs" means those persons, including their personal attendants, who because of physical or mental disability, income status, or age are unable to transport themselves or to purchase appropriate transportation.

(d) "Public transportation" means the transportation of passengers by means other than chartered or sightseeing bus, together with necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people moving systems. It includes passenger services of the Washington state ferries.

(e) "Nonmotorized commuting" means commuting to and from the workplace by an employee by walking or running or by riding a bicycle or other device not powered by a motor. It does not include teleworking.

(3) **Business and occupation tax and public utility tax exemptions.** Amounts received from providing commuter ride sharing and ride sharing for persons with special transportation needs are exempt from the business and occupation tax and from the public utility tax. RCW 82.04.355 and 82.16.047.

(4) **Retail sales tax exemption.** RCW 82.08.0287 provides a retail sales tax exemption for sales of passenger motor vehicles as ride-sharing vehicles.

(a) Sales tax does not apply to sales of passenger motor vehicles used for commuter ride sharing or ride sharing for persons with special transportation needs if the vehicles are exempt from motor vehicle excise tax under RCW 82.44.015 for thirty-six consecutive months beginning within thirty days of application for exemption from sales tax. If the vehicle is used as a ride-sharing vehicle for less than thirty-six consecutive months, the registered owner must notify the department of revenue and pay the tax.

(b) Vehicles with five or six passengers, including driver, used for commuter ride sharing must be operated within a county having a commute trip reduction plan under

chapter 70.94 RCW in order to be purchased without payment of sales tax. In addition, for the exemption to apply at least one of the following conditions must apply:

(i) The vehicle must be operated by a public transportation agency for the general public;

(ii) The vehicle must be used by a major employer, as defined in RCW 70.94.524, as an element of its commute trip reduction program for their employees; or

(iii) The vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work.

(5) **Use tax exemption.** RCW 82.12.0282 provides a use tax exemption for the use of passenger motor vehicles as ride-sharing vehicles.

(a) Use tax does not apply to the use of passenger motor vehicles used for commuter ride sharing or ride sharing for persons with special transportation needs if the vehicles are exempt from motor vehicle excise tax under RCW 82.44.015 for thirty-six consecutive months beginning within thirty days of application for exemption from use tax. If the vehicle is used as a ride-sharing vehicle for less than thirty-six consecutive months, the registered owner must notify the department of revenue and pay the tax.

(b) Vehicles with five or six passengers, including driver, used for commuter ride sharing must be operated within a county having a commute trip reduction plan under chapter 70.94 RCW in order to be purchased without payment of sales tax. In addition, for the exemption to apply at least one of the following conditions must apply:

(i) The vehicle must be operated by a public transportation agency for the general public;

(ii) The vehicle must be used by a major employer, as defined in RCW 70.94.524, as an element of its commute trip reduction program for their employees; or

(iii) The vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work.

(6) **Business and occupation tax and public utility tax credit.** Employers in Washington are allowed a credit against their business and occupation tax and public utility tax liability for amounts paid to or on behalf of employees for ride sharing in vehicles carrying two or more persons, using public transportation, or using nonmotorized commuting. RCW 82.04.4453 and 82.16.048. Employers must provide incentives before June 30, 2000, to be eligible for the credit. The credit program expires December 31, 2000.

(a) In most cases, the amount of the credit is equal to the amount paid to or on behalf of each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per year. However, for ride sharing in vehicles carrying two persons, the credit is equal to the amount paid to or on behalf of each employee multiplied by thirty percent, but may not exceed sixty dollars per employee per year. The credit is based upon amounts paid to or on behalf of individual employees, and may not be based upon an average of

amounts paid to or on behalf of employees for qualifying purposes.

(b) The credit may not exceed the amount of business and occupation tax or public utility tax that would otherwise be due for the same calendar year after all other credits are applied.

(c) An employer may not receive credit for amounts paid to or on behalf of the same employee under both the business and occupation tax and the public utility tax.

(d) The total credit received by an employer against both the business and occupation tax and the public utility tax may not exceed one hundred thousand dollars for a calendar year.

(e) The total credit granted to all employers under both the business and occupation tax and the public utility tax may not exceed one million five hundred thousand dollars for a calendar year.

(f) No credit or portion of a credit denied because of exceeding the limitations in (d) or (e) of this subsection may be used against tax liability for other calendar years.

(7) **Credit procedures.** This subsection explains the procedures used in the credit program described in subsection (6) of this rule.

(a) Persons apply for the credit by completing a ride share credit reporting schedule and filing it with the combined excise tax return covering the period for which the credit is claimed. The ride share credit reporting schedule is available upon request from the department of revenue.

(b) Persons may not apply for the credit more frequently than once per quarter nor less frequently than once per year against taxes due for the same calendar year in which the amounts for which credit is claimed were paid to or on behalf of employees.

(c) Credit must be claimed by the due date of the last tax return for the calendar year in which the payment to or on behalf of employees was made.

(i) Credit not previously claimed may not be claimed for the first time on supplemental or amended tax returns filed after the due date of the last tax return for the calendar year in which the payment to or on behalf of employees was made.

(ii) If the department of revenue has granted an extension of the due date for the last tax return for the calendar year in which the payment to or on behalf of employees was made, the credit must be claimed by the extended due date.

(d) The department of revenue tabulates the amount of credit taken by all employers on a quarterly basis. If the annual maximum of one million five hundred thousand dollars in credit is exceeded in a given quarter, no further credit will be allowed in succeeding quarters in the same calendar year. For the quarter in which the maximum is exceeded, the department of revenue calculates the amount of credit available at the beginning of the quarter and determines the proportional share of that amount for every employer who has claimed a credit in the quarter. Employers are billed for the difference between the amount of credit they claimed and the prorated amount of credit for which they are eligible.

(8) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(a) An employer pays one hundred eighty dollars for a yearly bus pass for one employee. For another employee, the employer buys a bicycle helmet and bicycle lock for a total of fifty dollars. This is the total expenditure during a calendar year of amounts paid to or on behalf of employees in support of ride sharing, using public transportation, and using non-motorized commuting. The employer may claim a credit of sixty dollars for the amount spent for the employee using the bus pass. Fifty percent of one hundred eighty dollars is ninety dollars, but the credit is limited to sixty dollars per employee. The employer may claim a credit of twenty-five dollars (fifty percent of fifty dollars) for the amount spent for the employee who bicycles to work. Even though fifty percent of two hundred thirty dollars, the amount spent on both employees, works out to be less than sixty dollars per employee, the credit is computed by looking at actual spending for each employee and not by averaging the spending for both employees.

(b) An employer provides parking spaces for the exclusive use of ride-sharing vehicles. Amounts spent for signs, painting, or other costs related to the parking spaces do not qualify for the credit. This is because the credit is for financial incentives paid to or on behalf of employees. While the parking spaces support the use of ride-sharing vehicles, they are not financial incentives and do not involve amounts paid to or on behalf of employees.

(c) As part of its commute trip reduction program, an employer pays the cab fare for an employee who has an emergency and must leave the workplace but has no vehicle available because he or she commutes by ride-sharing vehicle. The cab fare qualifies for the credit, if it does not cause the sixty dollar limitation to be exceeded, because it is an amount paid on behalf of a specific employee.

WSR 99-04-036

PROPOSED RULES

BOARD OF BOILER RULES

[Filed January 27, 1999, 8:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-105.

Title of Rule: WAC 296-104-700 and 296-104-285.

Purpose: To comply with actions taken by the Board of Boiler Rules amending fee schedules to ensure revenue is sufficient to support program expenses. To delete WAC 296-104-285 covered under WAC 296-104-107.

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

Statute Being Implemented: Duties of board-make definitions, rules and regulations, inspection fees-expenses schedules.

Summary: Amending fee schedules and deleting duplication of section.

Reasons Supporting Proposal: To ensure revenue is sufficient to support program expenses, deletion of duplicate section.

PROPOSED

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dick Barkdoll, Tumwater L&I, 902-5270.

Name of Proponent: Board of Boiler Rules, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 296-104-700 Inspection fees—Certificate fees—Expenses, to increase fees to limit set by the Office of Financial Management of 4.16% or less to ensure revenue is sufficient to support operating expenses and maintain the boiler fund at a level acceptable to the board.

WAC 296-104-285 Unfired pressure vessels in places of public assembly, to delete section now covered in WAC 296-104-107.

Proposal Changes the Following Existing Rules: Increases fees.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Board of Boiler Rules and the department have determined that this increase in fees is a minor economic impact and thus the department is not required to prepare a small business economic impact statement.

RCW 34.05.328 does not apply to this rule adoption. RCW 34.04.328 [34.05.328] exempts the Board of Boiler Rules from the significant rule requirements and although the criteria does not apply, the board chooses to apply the criteria.

Hearing Location: Labor and Industries, 7273 Linderson Way S.W., Tumwater, on March 16, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Dick Barkdoll by March 15, 1999, (360) 902-5270.

Submit Written Comments to: Dick Barkdoll, Labor and Industries, Boiler Section, P.O. Box 44410, Olympia, 98504-4410, fax (360) 902-5270, by March 16, 1999.

Date of Intended Adoption: March 30, 1999.

January 27, 1999

Frank G. Sanchez

Chair

AMENDATORY SECTION (Amending WSR 98-09-064, filed 4/20/98, effective 5/21/98)

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

Heating boilers:	Internal	External
Cast iron—All sizes	((26.00)) <u>27.05</u>	((20.80)) <u>21.65</u>
All other boilers less than 500 sq. ft.	((31.20)) <u>32.50</u>	((20.80)) <u>21.65</u>
500 sq. ft. to 2500 sq. ft.	((52.00)) <u>54.15</u>	((26.00)) <u>27.05</u>

Each additional 2500 sq. ft. of total heating surface, or any portion thereof	((20.80)) <u>21.65</u>	((10.40)) <u>10.80</u>
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Power boilers:	Internal	External
Less than 100 sq. ft.	((26.00)) <u>27.05</u>	((20.80)) <u>21.65</u>

100 sq. ft. to less than 500 sq. ft.	((31.20)) <u>32.50</u>	((20.80)) <u>21.65</u>
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500 sq. ft. to 2500 sq. ft.	((52.00)) <u>54.15</u>	((26.00)) <u>27.05</u>
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Each additional 2500 sq. ft. of total heating surface, or any portion thereof	((20.80)) <u>21.65</u>	((10.40)) <u>10.80</u>
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Pressure vessels:		
Automatic utility hot water supply heaters per RCW 70.79.090		((5.20)) <u>5.40</u>

All other pressure vessels: Square feet shall be determined by multiplying the length of the shell by its diameter.

	Internal	External
Less than 15 sq. ft.	((20.80)) <u>21.65</u>	((15.60)) <u>16.25</u>

15 sq. ft. to less than 50 sq. ft.	((31.20)) <u>32.50</u>	((15.60)) <u>16.25</u>
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50 sq. ft. to 100 sq. ft.	((36.40)) <u>37.90</u>	((20.80)) <u>21.65</u>
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For each additional 100 sq. ft. or any portion thereof	((10.40)) <u>10.80</u>	((36.40)) <u>37.90</u>
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Certificate of inspection fees: For objects inspected, the certificate of inspection fee is \$ ~~((15.60))~~ 16.25 per object.

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

For each hour or part of an hour up to 8 hours	((31.20)) <u>32.50</u>
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For each hour or part of an hour in excess of 8 hours	((46.80)) <u>48.75</u>
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Nuclear shop inspections, nuclear field construction inspections, and nuclear triennial shop survey and audit:

PROPOSED

WSR 99-04-037

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed January 27, 1999, 9:51 a.m.]

For each hour or part of an hour up to 8 hours ((~~46.80~~)) 48.75

For each hour or part of an hour in excess of 8 hours ((~~72.80~~)) 75.80

Nonnuclear triennial shop survey and audit:
When state is authorized inspection agency:

For each hour or part of an hour up to 8 hours ((~~31.20~~)) 32.50

For each hour or part of an hour in excess of 8 hours ((~~46.80~~)) 48.75
When insurance company is authorized inspection agency:

For each hour or part of an hour up to 8 hours ((~~46.80~~)) 48.75

For each hour or part of an hour in excess of 8 hours ((~~72.80~~)) 75.80

Expenses shall include:

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-104-285 Unfired pressure vessels in places of public assembly.

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-006.

Title of Rule: Certificate of title—Motor vehicles, etc.

Purpose: 1. To meet the criteria set forth in Governor Locke's Executive Order 97-02.

2. To clarify rules and help make them more comprehensible.

Statutory Authority for Adoption: RCW 46.01.110.

Summary: Amending WAC 308-56A-060 Form required for name and address—Ownership in joint tenancy, 308-56A-065 Vehicles held in trust, 308-56A-070 Leased vehicles, and 308-56A-075 Two legal owners.

Reasons Supporting Proposal: Meet criteria supporting Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: Patrick J. Zlateff, 1125 Washington Street S.E., Olympia, 902-3718; **Implementation and Enforcement:** Eric Andersen, 1125 Washington Street S.E., Olympia, 902-4045.

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

Explanation of Rule, its Purpose, and Anticipated Effects: 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 economic impact statement is not required pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in an industry.

RCW 34.05.328 does not apply to this rule adoption. The contents of the proposed rules are explicitly and specifically dictated by statute.

Hearing Location: Highways-Licenses Building, Conference Room 303, 1125 Washington Street S.E., Olympia, WA 98507, on March 16, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patrick J. Zlateff by March 15, 1999, TDD (360) 664-8885, or (360) 902-3718.

Submit Written Comments to: Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, fax (360) 664-0831, by March 15, 1999.

Date of Intended Adoption: April 3, 1999.

January 26, 1999

Nancy S. Kelly, Administrator
Title and Registration Services

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

~~WAC 308-56A-060 ((Form required for name and address—)) Ownership in joint tenancy. ((If more than one person is shown on the title application as registered owner,~~

PROPOSED

and the intention of the parties is to create ownership in joint tenancy, it is necessary to use the following language on the application for certificate of title:

(1) "John Doe and Jane Doe and Mary Doe as joint tenants with right of survivorship"; or

(2) "John Doe and Jane Doe and Mary Doe as joint tenants with right of survivorship and not as tenants in common."

The address of only one of the registered owners will be accepted on the application for title. The ownership of the vehicle in joint tenancy will be indicated on the certificate issued by the department in the following manner: "J.T.W.R.O.S."

A certified copy of the death certificate will be required upon the death of a party named on such a title. An application for title in the name(s) of the remaining party will be required.) (1) What does joint tenancy with rights of survivorship mean when noted on a certificate of ownership? If owners own a vehicle in joint tenancy with rights of survivorship and one of the named parties dies, ownership vests in the surviving joint owner(s). The department will issue a certificate of ownership in the name of the surviving joint owner(s) upon application supported by a copy of the death certificate.

(2) How is joint tenancy with rights of survivorship shown on the application for certificate of ownership? The application for certificate of ownership shall show the name of every owner with the phrase "Joint tenants with rights of survivorship" spelled out. The address of only one owner can be accepted on the application.

Example 1:

Doe, John

Doe, Jane

Doe, Mary

Joint tenants with rights of survivorship; or

Example 2:

Doe, John

Doe, Jane

Joint tenants with rights of survivorship.

(3) How is joint tenancy with rights of survivorship shown on the certificate of ownership? The certificate of ownership will be printed showing the abbreviation "JTWR.OS."

(4) If one of the owners dies, what additional documentation does the department require to transfer the certificate of ownership into the name(s) of the surviving owner(s)? The department requires a copy of the death certificate.

AMENDATORY SECTION (Amending WSR 97-03-076, filed 1/15/97, effective 2/15/97)

WAC 308-56A-065 Vehicles held in trust. (1) ((The trustee of a trust, including family trusts, executed pursuant to chapter 11.98 RCW listing a vehicle on the property schedule shall make application for certificate of ownership and registration in the name of the trustee, pursuant to chapters 46.12 and 46.16 RCW. The certificates of ownership and registration shall show the trustee as registered or legal owner followed by the word "trustee" and the name of the trust. The

name of the trust may be abbreviated to fit into available space.

(2) Applications for licensing activities on the vehicle, including release of interest and transfer of ownership shall be requested over the signature of the trustee until the trustee is replaced or the trust is terminated. The replacement trustee shall make application for transfer of ownership as provided in subsection (1) of this section. If a replacement trustee is not appointed or the trust is terminated, the beneficiary of the vehicle shall make application for ownership as provided in chapter 46.12 RCW.) How is a trust established under chapter 11.98 RCW shown on a certificate of ownership? Owners who choose to designate the trust on a certificate of ownership may:

(a) Show the registered owner name with the designation trustee;

(b) Show the registered owner name with the designation trustee followed by the name of the trust as one owner. If necessary, the name of the trust will be abbreviated to comply with the department's data field size constraints on the automated vehicle field system and space limitations on the certificate of ownership; or

(c) The name of the trust only.

(2) What trust documents do I need to present to apply for a certificate of ownership in the name of the trust? You will need to provide a copy of the signed trust documents, showing the name of the trust, trustee(s) and successor trustees.

(3) If a vehicle is titled in the name of a trust, who represents the trust for title transactions? The trustee shown on the certificate of ownership represents the trust on all vehicle transactions with the department until such time as the trustee is replaced or the trust is terminated.

(4) What is required when a successor trustee is appointed? The successor trustee must apply for a new certificate of ownership and provide documentation appointing them as trustee.

(5) What is required when a trust is terminated? The beneficiary must apply for a new certificate of ownership under chapter 46.12 RCW.

AMENDATORY SECTION (Amending WSR 97-03-076, filed 1/15/97, effective 2/15/97)

WAC 308-56A-070 Leased vehicles. ((If the vehicle is leased and operated in Washington, it must be titled and licensed in Washington.

(1) The application for title is to be completed with the name of the lessee as registered owner, followed by the word "lessee." The name of the lessor is shown as the secured party or legal owner, followed by the word "lessor."

(2) If the vehicle is subject to a security agreement, the application will be completed as above except the lessor's name will be immediately below the lessee's name and will be identified by the word "lessor." The address shown will be the lessee's. The secured party's name and address will be shown in the legal owner's space.

(3) Dealers and persons engaged in the business of vehicle leasing may simply show the lessor as sole registered

owner if a copy of the lease or rental agreement is attached to the application. This does not apply if the lease contains an option to purchase or if it is for more than one year.) **(1) How are the lessee and lessor designated on Washington certificates of ownership?**

(a) The application for certificate of ownership shall show the name of the lessee as registered owner, followed by the word **lessee**. The name of the lessor shall be shown as the secured party or legal owner, followed by the word **lessor**.

(b) If the vehicle is subject to a security agreement, the application shall be completed as above with the lessor's name immediately below the lessee's name as second registered owner and shall be followed by the word **lessor**. The address shown shall be the lessee's. The secured party's name and address shall be shown as the legal owner.

(c) Dealers and persons engaged in the business of vehicle leasing may simply show the lessor as sole registered owner if a copy of the lease or rental agreement is attached to the application. This does not apply if the lease contains an option to purchase or if it is for more than one year.

(2) How is a lessee and sublessee designated on the Washington certificate of ownership?

(a) Lessees who enter into a lease agreement with another party will be shown on a certificate of ownership as the registered owner followed by the designation **LESSEE**. The sublessee will be shown on a certificate of ownership as the registered owner followed by the designation **SUBLESEE**. Only the sublessee must sign the application for certificate of ownership.

(b) The name of the lessor shall be shown as either:

(i) The secured party or legal owner, followed by the word **lessor**; or

(ii) If the vehicle is subject to a security agreement, the application shall be completed as above with the lessor's name immediately below the lessee's name as third registered owner and shall be followed by the word **lessor**. The address shown shall be the sublessee's. The secured party's name and address shall be shown as the legal owner.

(3) Do I need to surrender my out-of-state certificate of ownership to the department when I register my leased vehicle in Washington? If the out-of-state certificate of ownership shows lessee and lessor designations as required by Washington state law or rule, the certificate of ownership need not be surrendered. A certificate of registration will be issued, however, a Washington certificate of ownership will not. If the out-of-state certificate of ownership is not in name agreement or does not show lessee and lessor designations as required by Washington law or rule, the out-of-state certificate of ownership shall be surrendered and a Washington certificate of ownership will be issued to the lessor/legal owner.

AMENDATORY SECTION (Amending WSR 97-03-076, filed 1/15/97, effective 2/15/97)

WAC 308-56A-075 ((Two)) Multiple legal owners. (If one of two legal owners shown on a certificate of title has his/her security interest in the vehicle satisfied, that interest in the vehicle shall be released in the appropriate manner and the appropriate documentation forms forwarded to the

remaining legal owner. The remaining legal owner shall either (1) retain that documentation and forward it to the department at the time his/her interest is satisfied along with an application for reissue or (2) the documentation shall be immediately presented to the department with an application for reissue of title to show the remaining secured party as the sole legal owner of the vehicle. If the outstanding certificate of title does not show the address of the remaining legal owner, there must be an application for reissue of title in order that the address of the remaining legal owner may be indicated on the outstanding certificate of title.) **(1) Will the department issue a certificate of ownership indicating more than one legal owner? Yes, more than one legal owner may be shown on the certificate of ownership.**

(2) How are additional legal owner's interest shown on the certificate of ownership? Additional legal owners are shown directly after the first legal owner. Only the address of the first legal owner shall be shown on the certificate of ownership.

(3) If the lien has been satisfied with one of the legal owners shown on a certificate of ownership, how is their interest released? When security interest of one of the legal owners shown on a certificate of ownership has been satisfied that interest shall be released on the certificate of ownership or a department approved release of interest form. The remaining legal owner(s) shall, within ten days of receiving the properly released certificate of ownership, apply for reissue of the certificate of ownership showing the remaining legal owner's name and address.

WSR 99-04-038

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed January 27, 1999, 9:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-22-030.

Title of Rule: Certificate of title—Motor vehicles, etc.

Purpose: 1. To meet the criteria set forth in Governor Locke's Executive Order 97-02.

2. To clarify rules and help make them more comprehensible.

Statutory Authority for Adoption: RCW 46.01.110.

Summary: Amending WAC 308-56A-250 Signature of registered owner on application—Exceptions, 308-56A-265 Releasing interest, 308-56A-270 Forms of signature, and 308-56A-275 Certification of signature; and repealing WAC 308-56A-255 Signature of registered owner—Supplemental form, 308-56A-280 Certification of signature—Departmental employees, and 308-56A-285 Certification of signature—Vehicle dealer.

Reasons Supporting Proposal: Meet criteria supporting Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: Patrick J. Zlateff, 1125 Washington Street S.E., Olympia, 902-3718; Implementation: Nancy Kelly, 1125 Washington

PROPOSED

Street S.E., Olympia, 902-3754; and Enforcement: Eric Andersen, 1125 Washington Street S.E., Olympia, 902-4045.

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

Explanation of Rule, its Purpose, and Anticipated Effects: 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 economic impact statement is not required pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in an industry.

RCW 34.05.328 does not apply to this rule adoption. The contents of the proposed rules are explicitly and specifically dictated by statute.

Hearing Location: Highways-Licenses Building, Conference Room 303, 1125 Washington Street S.E., Olympia, WA 98507, on March 9, 1999, at 10:00.

Assistance for Persons with Disabilities: Contact Patrick J. Zlateff by March 8, 1999, TDD (360) 664-8885, or (360) 902-3718.

Submit Written Comments to: Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, fax (360) 664-0831, by March 8, 1999.

Date of Intended Adoption: April 3, 1999.

January 26, 1999

Nancy S. Kelly, Administrator
Title and Registration Services

AMENDATORY SECTION (Amending WSR 92-15-024, filed 7/6/92, effective 8/6/92)

WAC 308-56A-250 Signature of registered owner on application—Exceptions. ((On an application for an original, reissue, or transfer of certificate of title, the signature of each and every named registered owner of the vehicle is required except:

(1) ~~When the application is for the sole purpose of removing a legal owner of record from the certificate of title when that legal owner's security interest has been satisfied in the vehicle;~~

(2) ~~When authorized supportive documentation is used in lieu of the signature or signatures;~~

(3) ~~When the legal owner applies for a duplicate title;~~

(4) ~~When there is a statutorily authorized lien filed by a government agency to place a lien against the vehicle as a secured party.~~

(5) ~~When an existing legal owner's perfected security interest is transferred to another party and the new legal owner is perfecting their security interest and removing the existing legal owner. Evidence or documentation of the secured interest transfer must be provided.)~~ (1) **When is the signature of a registered owner(s) required?** Each registered owner is required to sign the application for certificate of ownership **except when:**

(a) The application is for the sole purpose of removing a secured party of record from the certificate of ownership;

(b) Authorized supportive documentation is used in lieu of the signature or signatures;

(c) The legal owner applies for a duplicate title certificate of ownership;

(d) There is a statutorily authorized lien filed by a government agency against the vehicle;

(e) An existing legal owner's perfected security interest is transferred to another party and the new secured party is perfecting its security interest.

(2) **If there are multiple registered owners on an application for certificate of ownership, when is only one registered owner's signature required? Only one registered owner's signature is required when:**

(a) The last certificate of ownership was issued in another jurisdiction; and

(b) The last certificate of ownership shows multiple registered owners; and

(c) Ownership is not changing.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308-56A-265 Releasing interest. (1) ~~((In order for a person to release his/her interest in a vehicle as registered or legal owner, his/her signature is required on the certificate of title issued by the department, unless authorized supportive documentation is used in lieu of that signature or in lieu of the certificate issued by the department.~~

(2) ~~If the signatures are not on the certificate of title, all signatures must be certified in accordance with WAC 308-56A-275.~~

(3) ~~If more than one person is shown on the certificate of title issued by the department as registered or legal owner, the signature of each registered and legal owner is required no matter what the form of ownership unless authorized supportive documents are used in lieu of one or more signatures.~~

(4) ~~A release of interest is not required from one identified as a lessee.)~~ **How does an owner release interest in a vehicle? A vehicle owner(s) or secured party who intends to release interest in a vehicle shall:**

(a) Sign the release of interest provided on the certificate of ownership; or

(b) Sign a release of interest document or form approved by the department.

(2) **What forms may secured parties use in lieu of subsection (1)(a) and (b) of this section when their intent is to release interest? Secured parties who intend to release their interest in a vehicle may provide one of the following if accompanied by the most recently issued certificate of ownership:**

(a) Their properly completed official lien release form; or

(b) A release of interest on its official letterhead, if the secured party is a business entity.

(3) **How is the release of interest submitted on an electronically generated Washington certificate of ownership? If the Washington certificate of ownership is a paper-**

less title, the secured party may release its interest electronically or by signing an affidavit in lieu of title.

(4) When do signatures releasing interest need to be notarized or certified? An owner's release of interest on department approved documents other than the certificate of ownership must be notarized or certified in accordance with WAC 308-56A-275.

(5) Are there situations when signatures would not need to be notarized or certified in order to release interest? Yes, the following are situations where notarized or certified is not required:

(a) A signature releasing interest on the certificate of ownership issued by the department or another jurisdiction;

(b) A signature releasing interest on an affidavit in lieu of title printed at a Washington paperless title institution's location;

(c) When there is a secured party and:

(i) The secured party is a business; and

(ii) Release of interest in a vehicle is in accordance with subsection (2)(a) or (b) of this section; and

(iii) The current certificate of ownership is submitted with the separate release of interest and an application for a new certificate of ownership;

(d) A release of interest or bill of sale from the registered owner when the vehicle is from a jurisdiction which does not title this type of vehicle;

(e) A release of interest or a bill of sale from a wrecker or insurance company.

(6) When is a registered owner's release of interest not required? A release of interest is not required when a registered owner is identified as a lessee or sublessee on an ownership document.

(7) What documentation may be used in lieu of a release of interest? Documents that may be used in lieu of a release of interest include, but are not limited to, a certified or notarized:

(a) Bill of sale;

(b) Affidavit in lieu of title with the release of interest portion properly completed;

(c) Release of interest form;

(d) Letter of release;

(e) Affidavit of repossession;

(f) Abandoned vehicle report;

(g) Chattel or landlord lien form;

(h) Certificate of junk vehicle form; or

(i) Other documentation approved by the department.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308-56A-270 Forms of signature. (1) ~~((In all cases where the signature of an individual is required, that signature shall be in exactly the same form as the name of the individual that appears on the application or on the certificate of title issued by the department. If the signature contains initials that coincide with the first letter of the given name or names of the named individual, the department will accept that signature. If the signature contains a given name or names that begin with the initials shown on the application or on the title, the department will accept that signature also.~~

~~(2) If the signature of a named business entity is required, an authorized individual shall sign for the business entity and indicate the title of his/her position with that entity. The name of the business entity shall be shown. A commonly known abbreviation of the name of the business entity, may, in the discretion of the department, be accepted.)) What signature format is acceptable to the department? The department will accept:~~

(a) The signature of an individual in the same form as the name appears on the application or on the certificate of ownership.

(b) The signature containing initials corresponding to the first letter of the given name(s).

(c) The signature containing a given name(s) corresponding to the initials.

(d) Common nicknames such as Bob for Robert, Jim for James, Betty for Elizabeth, etc.

(e) The signature, any memorandum, mark or sign made with the intent to authenticate and application for certificate of ownership or registration of any person provided in RCW 9A.04.110(23).

(2) What form of signature is required for business owned vehicles? Signatures for business owned vehicles must include:

(a) The name of the business or a commonly accepted abbreviation for the business;

(b) The signature of the person who is signing on behalf of the business; and

(c) The title of the position of the person.

AMENDATORY SECTION (Amending Order TL/RG 44, filed 9/30/88)

WAC 308-56A-275 Certification of signature. ~~((The signature of every applicant to be shown on the certificate of title as the registered owner and of other signatures, as required, shall be subscribed to and sworn to by that person before a notary public, county auditor, deputy auditor, an authorized agent approved by the director of licensing, an agent appointed by the director of licensing, an employee or appointee of either type or agent, or an employee of the department of licensing authorized by the director to certify to an applicant's signature. Approved identification of the person signing shall be required.)) Who may certify signatures?~~

(1) Signatures shall be notarized by a notary public or certified by agents and subagents appointed by the director to conduct vehicle title and registration activities on behalf of the department. The certification must include the signature and the county, office, and operator numbers of the person certifying the signature. Signatures may also be certified by one of the following:

(a) Employees authorized by the director to certify signatures. These employees are:

(i) Deputy director; and

(ii) Assistant director for vehicle services; and

(iii) Administrator and managers of the division primarily responsible for vehicle title and registration; and

(iv) Persons assigned to liaison duties between the department and its agents and subagents; and

(v) Persons assigned the responsibility of accepting title and registration applications at the department's offices; and
(vi) Persons assigned the responsibility for investigating vehicle dealer activities; and

(b) Persons authorized by a Washington licensed vehicle dealer, if the vehicle is sold by that dealer. The certification must include the dealer number, signature, and title, of the person certifying the signature.

(2) The person certifying the signatures shall require proof of identification. Approved identification is:

(a) Drivers license; or

(b) Any photo identification card; or

(c) Any two of the following:

(i) A nationally or regionally recognized credit card (signed);

(ii) A signed ID card issued by a city, county, state or federal government agency;

(iii) Any certificate or other document issued by a government agency for the purpose of establishing identity; or

(d) Other documentation satisfactory to the person certifying the signature.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 308-56A-255 Signature of registered owner—Supplemental form.
- WAC 308-56A-280 Certification of signature—Departmental employees.
- WAC 308-56A-285 Certification of signature—Vehicle dealer.

WSR 99-04-072

PROPOSED RULES

DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT

[Filed February 1, 1999, 3:54 p.m.]

Supplemental Notice to WSR 98-19-127.

Preproposal statement of inquiry was filed as WSR 98-11-018.

Title of Rule: Long-term care ombudsman program. The rules are consistent with applicable changes in federal and state statutes. The rules replace chapter 388-18 WAC, the current governing rules under the administrative jurisdiction of the state's Department of Social and Health Services (DSHS).

Purpose: The rules will allow the long-term care ombudsman program to exercise all of the authority granted to it in the reauthorized Older Americans Act, and provide, per legislative directive, that the Department of Community, Trade and Economic Development (CTED) contract with a private nonprofit agency to run the program.

Statutory Authority for Adoption: RCW 43.190.030, as amended.

Statute Being Implemented: RCW 43.190.030, as amended.

Summary: The rules define contractor, subcontractor and ombudsman qualifications and duties; conflict of interest; access to residents, facilities and records; confidentiality of information and records; protection from interference; and name CTED as the administering agency.

Reasons Supporting Proposal: The 1997 legislature gave CTED the authority to adopt program rules; and CTED has determined that these rules will help better implement the state long-term care ombudsman program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nancy Hanna, Department of Community, Trade and Economic Development, (360) 586-0436.

Name of Proponent: Department of Community, Trade and Economic Development, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule clarifies the rules of CTED and the privatized program, and reflects recent changes in the Older Americans Act. Its purpose is to implement the long-term care ombudsman program as provided for in chapter 43.190 RCW. It will provide CTED the framework it needs to administer the program, and will allow for more uniform program implementation throughout the state.

Proposal Changes the Following Existing Rules: The rules reflect that the long-term care ombudsman program is no longer administered by DSHS, but is administered by CTED; and that the program is not within DSHS but is managed by a private nonprofit agency through a contract with CTED. The rules expand the scope of the program consistent with recent changes in the Older Americans Act.

No small business economic impact statement has been prepared under chapter 19.85 RCW. CTED has determined that no costs or only minor costs will be imposed on small businesses through the implementation of these rules; therefore, a small business economic impact statement is not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. CTED is not listed in section 201 as a significant legislative rule agency.

Hearing Location: Spokane Falls Community College, 3410 West Fort Wright Drive, Lounge C, Student Union Building #17, Spokane, on March 10, 1999, at 1:30 p.m.; and at the Department of General Administration Auditorium, Corner of 11th and Columbia, Main Floor, Olympia, Washington, on March 11, 1999, at 6:00 p.m.

Assistance for Persons with Disabilities: Contact Nancy Hanna by March 1, 1999, TDD (360) 753-2200 (agency information number) or (360) 586-0436.

Submit Written Comments to: Nancy Hanna, Program Manager, Long-term Care Ombudsman Program, Department of Community, Trade and Economic Development, P.O. Box 48300, Olympia, WA 98504-8300, fax (360) 586-0489, by March 12, 1999.

PROPOSED

Date of Intended Adoption: March 31, 1999.

January 27, 1999

Tim Douglas

Director

Chapter 365-18 WAC

LONG-TERM CARE OMBUDSMAN PROGRAM DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

NEW SECTION

WAC 365-18-010 Purpose. The purpose of this chapter is to implement the long-term care ombudsman program as provided for in chapter 43.190 RCW. The overall purpose of the ombudsman program is to promote the interests, well-being, and rights of long-term care facility residents.

NEW SECTION

WAC 365-18-020 Definitions. When used in this chapter, unless otherwise required by the context:

(1) "Contractor" means the private nonprofit organization established by contract with the department to provide the services of the office of the state long-term care ombudsman program.

(2) "Department" means the department of community, trade, and economic development.

(3) "Immediate family" pertaining to conflicts of interest, means spouse, parents, children and siblings.

(4) "Long-term care facility" or "facility" is as defined in RCW 43.190.020, and includes, but is not limited to, nursing homes, adult family homes and boarding homes.

(5) "Long-term care services" means services provided to residents and applicants of long-term care facilities including, but not limited to, assessment, placement, case management, and determinations regarding benefits, personal care, and health care, but for purposes of these regulations does not mean care or services provided in the applicant's or resident's home or outside of a long-term care facility. Services are those provided to residents of all ages, and include, but are not limited to, those provided to individuals with disabilities, mental health problems and dementia.

(6) "Ombudsman" means the state long-term care ombudsman, assistant state long-term care ombudsman, regional long-term care ombudsman, regional staff long-term care ombudsman, or certified long-term care volunteer ombudsman.

(7) "Resident" means any individual residing temporarily or permanently in a long-term care facility, and, when concerning complaints about admissions, readmissions, transfers, or discharges, includes applicants and former residents of such facilities.

(8) "State office" means the office of the state long-term care ombudsman.

NEW SECTION

WAC 365-18-030 Contractor, subcontractor, and ombudsman qualifications. (1) The contractor shall be a private nonprofit organization with demonstrated capability to carry out the responsibilities of the state long-term care ombudsman, including, but not limited to, an ability to receive, investigate, and resolve complaints from residents of long-term care facilities state-wide. Subcontractors shall have demonstrated the capability to carry out the responsibilities of their respective contracts. The contractor and subcontractors shall also be free of conflicts of interest, including:

(a) Not be an agency or organization that is responsible for licensing, certifying, or regulating long-term care facilities;

(b) Not be an association, or an affiliate of such an association, of long-term care facilities; and

(c) Have no pecuniary interest in any long-term care facility.

(2) The state long-term care ombudsman and assistant state long-term care ombudsman shall have demonstrated expertise and experience in the fields of long-term care and resident advocacy, and be free of conflicts of interest as defined in WAC 365-18-040.

(3) Ombudsmen shall have demonstrated capability to carry out the responsibilities of their respective offices, and be free of conflicts of interest as defined in WAC 365-18-040.

(4) Prior to representing the ombudsman program, all prospective ombudsmen shall successfully complete the training program designated by the state office prior to becoming certified and beginning work as ombudsmen. In addition, during the period of their employment as ombudsmen, all ombudsmen are expected to attend periodic training events designed to increase their knowledge and expertise.

(5) Prior to becoming an ombudsman, all prospective ombudsmen shall, at a minimum, successfully pass a criminal history background check as provided by RCW 43.43.842.

NEW SECTION

WAC 365-18-040 Conflicts of interest. (1) All ombudsmen shall be free from conflicts of interests, including:

(a) No ombudsman shall be or have been employed by or participated in the management of any long-term care facility, or have or have had the right to receive remuneration from a long-term care facility, including work as a paid consultant or independent contractor, currently or within the past three years;

(b) No ombudsman or member of his or her immediate family shall have, or have had within the past three years, any pecuniary interest in a long-term care facility or a long-term care service;

(c) No ombudsman shall have a direct involvement in the licensing, certification, or regulation of a long-term care facility or of a long-term care service;

(d) No ombudsman shall be the beneficiary of gifts, money or estate from residents.

PROPOSED

(2) No individual, or immediate family member of such an individual, who is involved in the designation or removal of the state, regional, regional staff, or certified volunteer long-term care ombudsmen, or the designation or revocation of the contractor or subcontractors, or who administers or oversees the contractor's or subcontractor's contract, may be an official or employee of any agency or organization that conducts the licensing, certification, or regulation of long-term care facilities, or that owns, operates, or manages such facilities.

NEW SECTION

WAC 365-18-050 Duties—Department. The department shall, consistent with federal and state laws:

- (1) Establish procedures for designating and contracting with a qualified private, nonprofit organization to provide the state long-term care ombudsman program services;
- (2) Facilitate the exchange of information among appropriate state agencies and organizations regarding issues relating to the long-term care ombudsman program;
- (3) Help the state long-term care ombudsman obtain direct access to the directors and key staff of state governmental entities with responsibilities that impact residents of long-term care facilities;
- (4) Provide other assistance to the ombudsman program as the department deems appropriate;
- (5) Monitor program activities and the expenditure of state and federal funds under the contract with the state office for appropriate utilization of funds and the fulfillment of state and federal laws; and
- (6) Assure, along with the state office, that no ombudsman is subject to a conflict of interest.

NEW SECTION

WAC 365-18-060 Duties—State ombudsman. The state long-term care ombudsman shall serve on a full-time basis and shall personally or through the assistant state long-term care ombudsman assure performance of the following duties:

- (1) Identify, investigate, and resolve complaints made by or on behalf of residents which relate to actions, inactions, or decisions that may adversely affect the health, safety, welfare, or rights of residents, made by:
 - (a) Providers, or representatives of providers, of long-term care or health care services;
 - (b) Public agencies;
 - (c) Health and social service agencies; or
 - (d) Guardians, representative payees, holders of powers of attorney, or other resident representatives;
- (2) In coordination with the appropriate state or local government agencies, develop referral procedures for all long-term care ombudsmen to refer complaints, when necessary, to any appropriate state or local government agency; such referral procedures must conform to the appropriate state law for reporting of abuse, neglect, exploitation or abandonment;

(3) Offer and provide services to assist residents and their representatives in protecting the health, safety, welfare, and rights of the residents;

(4) Inform the residents and their representatives about means of obtaining needed services, including, but not limited to, the prominent posting in every long-term care facility notices containing the name, address, and telephone number of the appropriate long-term care ombudsman;

(5) Ensure that residents and their representatives have regular and timely access to the services provided through the ombudsman program, and ensure that the residents and complainants receive timely responses from representatives of the ombudsman program;

(6) Represent the interests of residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(7)(a) Analyze, comment on, and monitor the development and implementation of federal, state, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to long-term care facilities and services in the state;

(b) Recommend any changes in such laws, regulations, policies, and actions as the state office determine to be appropriate;

(c) Provide such information as the state office determines to be necessary to public and private agencies, legislators, and other persons, regarding:

(i) The problems and concerns of individuals residing in long-term care facilities; and

(ii) Recommendations related to these problems and concerns; and

(d) Facilitate public comment on the laws, regulations, policies, and actions;

(8)(a) Establish procedures for the training and supervision of prospective regional long-term care ombudsmen, regional long-term care staff ombudsmen, and certified volunteer ombudsmen, and ensure that all ombudsmen are educated in the fields of long-term care and advocacy, including, but not limited to, mediation, laws that govern long-term care resident populations, and issues in long-term care facilities pertaining to residents with mental illness, dementia and disabilities;

(b) Monitor and provide administrative and policy direction and technical assistance to the regional long-term care ombudsmen; and

(c) Coordinate the activities of long-term care ombudsmen throughout the state;

(9)(a) Promote the development of citizen groups to participate in the ombudsman program; and

(b) Provide support for the development of resident councils and family councils to protect the well-being and rights of residents;

(10) Assure that representative stakeholder advisory boards are established and maintained for the state and regional ombudsman programs;

(11) Coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illness, and with legal services funded

under Title III of the Older Americans Act, through the development of memoranda of understanding and other means;

(12) Establish a state-wide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems;

(13) Prepare an annual report:

(a) Describing the activities carried out by the ombudsman program in the prior year;

(b) Evaluating the problems experienced by, and the complaints made by, or on behalf of, residents;

(c) Containing recommendations for:

(i) Improving quality of the care and life of the residents; and

(ii) Protecting the health, safety, welfare, and rights of the residents;

(d)(i) Analyzing the success and needs of the ombudsman program, including the success or gaps in providing services to residents of long-term care facilities; and

(ii) Identifying barriers that prevent the optimal operation of the ombudsman program;

(e) Providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare, and rights of residents, and to remove the barriers; and

(f) Make available to the federal Commissioner on Aging, the governor, the Washington state legislature, the department of social and health services, the department of health, the department of community, trade, and economic development, and other appropriate governmental entities and interested members of the public, the annual report described in this subsection;

(14) The state long-term care ombudsman may designate subcontractors to provide regional long-term care ombudsman services throughout the state. The state long-term care ombudsman shall designate and certify, in his or her judgment regional long-term care ombudsmen. The state long-term care ombudsman has the authority to revoke, when good cause is shown, the designation of the organization or the designation and certification of the individual regional long-term care ombudsman;

(15) The state long-term care ombudsman may designate qualified individuals as certified volunteer long-term care ombudsmen representing the ombudsman program. Such individuals shall receive a certificate and picture identification card from the state office signed by the state long-term care ombudsman. The state long-term care ombudsman has the authority to revoke, when good cause is shown, this certification.

NEW SECTION

WAC 365-18-070 Duties—Regional and regional staff long-term care ombudsmen. Regional and regional staff long-term care ombudsmen shall, in accordance with the policies and procedures established by the state office, have the following duties:

(1) Offer and provide services to protect the health, safety, welfare, and rights of residents;

(2) Ensure that residents and their representatives in the service area have regular, timely access to representatives of the ombudsman program and timely responses to complaints and requests for assistance;

(3) Identify, investigate, and resolve complaints made by or on behalf of residents that relate to actions, inactions, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents, made by:

(a) Providers, or representatives of providers, of long-term care or health care services;

(b) Public agencies;

(c) Health and social service agencies; or

(d) Guardians, representative payees, holders of powers of attorney, or other resident representatives;

(4) Recruit, train, place and supervise volunteer and staff ombudsmen who have been certified by the state ombudsman;

(5) Represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(6) Review, and if necessary, comment on any existing and proposed laws, regulations, and other governmental policies and actions, that pertain to the rights and well-being of residents; and facilitate the ability of the public to comment on the laws, regulations, policies, and actions;

(7) Promote the development of resident councils, family councils, and citizen advocacy groups; and

(8) Carry out other activities that the state long-term care ombudsman determines to be appropriate.

NEW SECTION

WAC 365-18-080 Duties—Certified volunteer long-term care ombudsmen. Certified volunteer long-term care ombudsmen shall, in accordance with policies and procedures established by the state office, and under the supervision of the regional long-term care ombudsman, have the following duties:

(1) Offer and provide services to protect the health, safety, welfare, and rights of residents;

(2) Represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of residents;

(3) Visit residents in the assigned facility(s) on a regular basis, according to program policy, conduct fact-finding activities to determine whether a formal complaint should be filed, advocate on behalf of residents, and communicate the resolution of concerns and complaints to the complainant, resident, and to the regional ombudsman; and

(4) Upon invitation, participate in resident councils and family councils; and where none exists, work to develop such councils.

NEW SECTION

WAC 365-18-090 Legal counsel. The state long-term care ombudsman shall ensure that adequate legal counsel is available, and is able, without conflict of interest, to:

- (1) Provide advice and consultation needed to protect the health, safety, welfare and rights of residents;
- (2) Pursue legal remedies on behalf of residents;
- (3) Assist representatives of the state office in performance of their duties; and
- (4) Provide legal representation to any representative of the state office against whom legal action is threatened or brought in connection with performance of their duties.

NEW SECTION

WAC 365-18-100 Ombudsman access to facilities, residents, and records. (1) All ombudsmen shall have access to all long-term care facilities and residents at any time deemed necessary and reasonable to effectively carry out the ombudsman duties set forth in this chapter. Access to facilities and residents by ombudsmen shall be deemed necessary and reasonable at the following times:

- (a) Any time during a facility's regular business day, regular visiting hours, or other period the facility is open to the public; and
- (b) Any other time access may be required by the particular condition to be investigated or monitored.
- (2) Upon entering a facility, or as soon as practicable thereafter, all ombudsmen shall report their presence to the facility administration and, upon request, present identification as an ombudsman.
- (3) Ombudsmen shall have access to residents to perform the duties set forth in this chapter and chapter 43.190 RCW. Provision shall be made by the facility and the ombudsman to secure privacy for the purpose of hearing, investigating, and resolving complaints of, and rendering advice to, individuals who are patients or residents of the facility at any time deemed necessary and reasonable by the state ombudsman to effectively carry out the provisions of this chapter.
- (4) Ombudsmen shall have access to residents without willful interference from the facility or the resident's representative, including a guardian, family member, or holders of powers of attorney.

(5) Ombudsmen shall have the following access to a resident's records:

- (a)(i) Prompt access to review all medical and social records of a resident, and other records relating to the resident such as incident reports and facility contracts if:
 - (A) The ombudsman has the permission of the resident, or the legal representative of the resident; or
 - (B) The resident is unable to consent to the review and has no legal representative; or
- (ii) Prompt access to review all medical and social records of a resident, as is necessary to investigate a complaint if:
 - (A) A legal representative of the resident, including a guardian, refuses to give the permission;

(B) The ombudsman has reasonable cause to believe that the legal representative or guardian is not acting in the best interest of the resident; and

(C) The ombudsman obtains the prior approval of the state long-term care ombudsman or his or her designee;

(b) Prompt access to long-term care facility's administrative records, policies, and documents to which the residents or the general public have access; provided, that in licensed nursing facilities this shall include, but not be limited to, the records and policies set forth in RCW 74.42.430.

(6) Ombudsmen shall have access to, and on request, copies of all licensing and certification records maintained by the state with respect to long-term care facilities.

NEW SECTION

WAC 365-18-110 Confidentiality of ombudsman records, communications privileged. (1) All records and files maintained by the long-term care ombudsman program shall remain confidential. Any disclosure of long-term care ombudsman program records is subject to the following provisions:

(a) No disclosure shall be made without the prior approval of the state ombudsman or his or her designee.

(b) No disclosure of records and files relating to any complaint or investigation made by an ombudsman carrying out his or her duties or the identities of complainants, witnesses, clients, patients, or residents shall be made unless one of the following conditions has been met:

(i) The complainant, patient, or resident, or their legal representative consents in writing to the disclosure; or

(ii) The complainant, patient, or resident gives oral consent, and that consent is documented contemporaneously in writing by a representative of the state office; or

(iii) The disclosure is required by court order.

(c) No disclosure can be made without the consent of any named witnesses, resident, patient, client, or complainant unless disclosure is made without the identity of any of these individuals being disclosed, or unless disclosure is required by court order.

(2) All communications by an ombudsman, if reasonably related to the requirements of that individual's responsibilities under this chapter or federal or state statutes and done in good faith, are privileged. That privilege shall serve as a defense to any action in libel or slander. Ombudsmen are exempt from being required to testify in court as to any confidential matters, except as the court may deem necessary to enforce this chapter.

NEW SECTION

WAC 365-18-120 Interference with the ombudsman, liability. (1) It is unlawful to take any discriminatory, disciplinary, or retaliatory action against the following persons:

- (a) Any employee of a facility or agency;
- (b) Any patient, resident, or client of a long-term care facility; or
- (c) Any volunteer;

for any communication made, or information given or disclosed, to an ombudsman carrying out his or her duties unless that person acted maliciously or without good faith.

(2) It is unlawful to willfully interfere with ombudsmen in the performance of their official duties.

(3) No ombudsman shall be liable for good faith performance of his or her duties under this chapter.

WSR 99-04-079
PROPOSED RULES
STATE BOARD OF EDUCATION

[Filed February 2, 1999, 3:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-20-014.

Title of Rule: Chapter 180-08 WAC, Practice and procedure.

Purpose: Authorizes State Board of Education to adopt rules governing the formal and informal procedures prescribed or authorized by chapter 34.05 RCW.

Statutory Authority for Adoption: RCW 34.05.220.

Summary: Review administrative rules every three years.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

Name of Proponent: State Board of Education.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rules establish authority and administrative practices regarding hearings and rule proceedings.

Proposal does not change existing rules.

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. Not applicable.

Hearing Location: Department of Labor and Industries, 7273 Linderson Way, Tumwater, WA 98504-4400, on March 18, 1999, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Carolyn Berger by March 5, 1999, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by March 5, 1999.

Date of Intended Adoption: March 19, 1999.

February 1, 1999

Larry Davis
Executive Director

NEW SECTION

WAC 180-08-015 Scheduled review of state board rules. The state board of education shall review all board rules not less than every three years.

WSR 99-04-080

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed February 2, 1999, 3:39 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-20-015.

Title of Rule: WAC 180-16-195 Annual reporting and review process, 180-16-220 Supplemental program and basic education allocation entitlement requirements, and 180-16-240 Compliance with other program requirements.

Purpose: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

Statutory Authority for Adoption: RCW 28A.150.250, 28A.150.260, and 28A.15.220 [28A.150.220].

Summary: Review of administrative rules adopted within the confines of the authority granted to State Board of Education.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

Name of Proponent: State Board of Education.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Purpose of determining compliance or noncompliance with basic education entitlement requirements; related supplemental conditions to a school district's entitlement to state basic education allocation funds; and school district adoption of a procedure ensuring awareness of and compliance with taking appropriate measures to safeguard all student and school district permanent records against loss or damage.

Proposal does not change existing rules.

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. Not applicable.

Hearing Location: Department of Labor and Industries, 7273 Linderson Way, Tumwater, WA 98504-4400, on March 18, 1999, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Carolyn Berger by March 5, 1999, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by March 5, 1999.

Date of Intended Adoption: March 19, 1999.

February 1, 1999

Larry Davis
Executive Director

PROPOSED

AMENDATORY SECTION (Amending Order 2-84, filed 5/17/84)

WAC 180-16-195 Annual reporting and review process. (1) **Annual district reports.** A review of each school district's kindergarten through twelfth grade program shall be conducted annually for the purpose of determining compliance or noncompliance with these basic education allocation entitlement requirements. On or before the third Monday in October of each school year, each school district superintendent shall complete and return the program data report form(s) prepared and distributed by the superintendent of public instruction. Such forms shall be designed to elicit data necessary to a determination of a school district's compliance or noncompliance with these entitlement requirements. Data reported on any such form(s) by a school district shall accurately represent the actual status of the school district's program as of the first school day in October and as thus far provided and scheduled for the entire current school year. Such forms shall be signed by:

- (a) The school board president or chairperson, and
- (b) The superintendent of the school district.

(2) **State staff review.** (~~The superintendent of public instruction~~) State board of education staff shall review each school district's program data report and such supplemental state reports as staff (~~deemed~~) deems necessary, conduct on-site monitoring visits of randomly selected school districts and prepare recommendations and supporting reports for presentation to the state board of education: *Provided*, That, if a school district's initial program data report and any other state reports considered do not establish compliance with these basic education allocation entitlement requirements, the district shall be provided the opportunity to explain the deficiency and provide supplemental data. School districts which foresee that they will not be able to comply with these entitlement requirements or that are deemed by the (~~superintendent of public instruction~~) state board to be in noncompliance may petition for a waiver on the basis of the limited ground of substantial lack of classroom space as set forth in WAC 180-16-225.

(3) Annual certification of compliance or noncompliance—Withholding of funds for noncompliance.

(a) At the annual March meeting of the state board of education, or at such other meeting as the board shall designate, the board shall certify each school district as being in compliance or noncompliance with these basic education allocation entitlement requirements.

(b) A certification of compliance shall be effective for the then current school year subject to any subsequent ad hoc review and determination of noncompliance as may be deemed necessary (~~or advisable~~) by the state board of education or advisable by the superintendent of public instruction. In addition, a certification of compliance shall be effective tentatively for the succeeding school year until such time as the state board takes its annual action certifying compliance or noncompliance with these entitlement requirements.

(c) A certification of noncompliance shall be effective until program compliance is assured by the school district to the satisfaction of (~~the superintendent of public instruction~~) state board of education staff, subject to review by the state

board. Basic education allocation funds shall be deducted from the basic education allocation of a school district that has been certified as being in noncompliance unless such district has received a waiver, pursuant to WAC 180-16-225, from the state board for such noncompliance, or assurance of program compliance is subsequently provided for the school year previously certified as in noncompliance and is accepted by the state board.

(d) The withholding of basic education allocation funding from a school district shall occur for a noncompliance provided that the school district has been given a reasonable amount of time to remediate the noncompliance situation, not to exceed forty school business days from the time the district receives notice of the noncompliance from the (~~superintendent of public instruction~~) state board of education. It is presumed that forty school business days is a reasonable time for school districts to correct an existing noncompliance. The (~~superintendent of public instruction~~) state board of education may extend such timeline only if the district demonstrates, by clear and convincing evidence, that such timeline is not reasonable to make the necessary corrections. For the purposes of this section, a school business day shall mean any calendar day, exclusive of Saturdays, Sundays, and any federal and school holidays upon which the office of the superintendent of the school district is open to the public for the conduct of business. A school business day shall be concluded or terminated upon the closure of said office for the calendar day.

(e) The superintendent of public instruction, or his/her designee, after notification by the state board of education to a school district regarding an existing noncompliance, shall enter into a compliance agreement with the school district that shall include, but not be limited to, the following criteria:

(i) A deadline for school district remediation of the noncompliance(s), not to exceed forty school business days per noncompliance as specified in (d) of this subsection.

(ii) A listing of all the noncompliance areas and the necessary terms that must be satisfied in each area in order for the school district to gain compliance status. This listing also shall specify additional deadlines for the accomplishment of the stated terms if different from the final deadline as specified in subsection (1) of this section.

(iii) A closing statement specifying that a school district's failure to remediate a noncompliance by the determined deadline shall result in the immediate withholding of the district's basic education allocation funding by the superintendent of public instruction.

(iv) The date and the signatures of the superintendent of the school district, or his/her designee, and the superintendent of public instruction, or his/her designee, to the agreement. A copy of the completed compliance agreement shall be sent to the chairperson of the school district's board of directors.

(f) In the event a school district fails to sign the compliance agreement within five school business days from the date of issuance or does not satisfy the terms of the signed compliance agreement within the designated amount of time, the superintendent of public instruction shall withhold state funds for the basic education allocation until program compliance is assured.

(g) The superintendent of public instruction shall withhold state funds for the basic education allocation to a school district based on the following procedure:

(i) For the first month that a noncompliance exists following the conditions as specified in (f) of this subsection, the superintendent of public instruction shall withhold twenty-five percent of the state funds for the basic education allocation to a school district.

(ii) For the second month that a noncompliance exists following the conditions as specified in (f) of this subsection, the superintendent of public instruction shall withhold fifty percent of the state funds for the basic education allocation to a school district.

(iii) For the third month that a noncompliance exists following the conditions as specified in (f) of this subsection, the superintendent of public instruction shall withhold seventy-five percent of the state funds for the basic education allocation to a school district.

(iv) For the fourth month, and every month thereafter, that a noncompliance exists following the conditions as specified in (f) of this subsection, the superintendent of public instruction shall withhold one hundred percent of the state funds for the basic education allocation to a school district until compliance is assured.

(h) Any school district may appeal to the state board of education the decision of noncompliance by the ~~((superintendent of public instruction))~~ state board of education staff. Such appeal shall be limited to the interpretation and application of these rules and regulations by such superintendent of public instruction. Such appeal shall not stay the withholding of any state funds pursuant to this section. The state board of education may not waive any of the basic education entitlement requirements as set forth in this chapter, except as provided in WAC 180-16-225.

AMENDATORY SECTION (Amending WSR 90-01-137, filed 12/20/89, effective 1/20/90)

WAC 180-16-220 Supplemental program and basic education allocation entitlement requirements. The following requirement((s)), while not imposed by the "Basic Education Act of 1977," ~~((are))~~ is hereby established by the state board of education as a related supplemental condition((s)) to a school district's entitlement to state basic education allocation funds.

~~(((1) Student to certificated staff ratio requirement. The ratio of students enrolled in a school district to full-time equivalent certificated employees shall not exceed twenty-three to one. Provided, That nonhigh school districts or school districts that have a student enrollment of two hundred fifty or less in grades nine through twelve may, as an alternative to the foregoing requirement, have a ratio of students to full-time equivalent certificated classroom teachers of twenty-six to one or less. For the purpose of this subsection, "certificated employees" shall mean those employees who are required by state statute or by rule of the state board of education, or by written policy of the school district to possess a professional education permit, certificate or credential issued by the superintendent of public instruction, as a condition to employment and "classroom teacher" shall be defined~~

~~as in WAC 180-16-210 and the students to classroom teachers ratio shall be computed in accordance with WAC 180-16-210(1).~~

~~(2))~~ **Current and valid certificates.** Every school district employee required by WAC ~~((180-75-055))~~ 180-79A-140 to possess a professional education permit, certificate, or credential issued by the superintendent of public instruction for his/her position of employment, shall have a current and valid permit, certificate or credential. In addition, effective August 31, 1987, classroom teachers, principals, vice principals, and educational staff associates shall be required to possess endorsements as required by WAC ~~((180-16-221, 180-16-231, and 180-16-236))~~ 180-82-105, 180-82-120, and 180-82-125, respectively.

~~(((3) Other program requirements self evaluation. Each school district shall adopt a procedure to ensure awareness of and compliance with other program requirements, including provisions set forth in WAC 180-16-240.))~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 180-16-240

Compliance with other program requirements.

WSR 99-04-081

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed February 2, 1999, 3:41 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-06-028.

Title of Rule: WAC 180-51-050 High school credit definition.

Purpose: To provide clarification of the definition of high school credit as it relates to adult high school completion course work through a college or university.

Statutory Authority for Adoption: RCW 28A.230.090.

Summary: Adoption will clarify the definition of high school credit for adults taking high school completion courses at a college or university.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

Name of Proponent: State Board of Education.

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

Explanation of Rule, its Purpose, and Anticipated Effects: High school credit definition clarification for high school completion awarded by a community college. This WAC identifies credit equivalency for community college classes taken to obtain high school completion.

Proposal does not change existing rules.

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

PROPOSED

WSR 99-04-082
PROPOSED RULES
STATE BOARD OF EDUCATION

[Filed February 2, 1999, 3:44 p.m.]

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Department of Labor and Industries, 7273 Linderson Way, Tumwater, WA 98504-4400, on March 18, 1999, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Carolyn Berger by March 5, 1999, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by March 5, 1999.

Date of Intended Adoption: March 19, 1999.

February 1, 1999
Larry Davis
Executive Director

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-20-016.

Title of Rule: Chapter 180-51 WAC, High school graduation requirements and chapter 180-18 WAC, Waivers for restructuring purposes.

Purpose: Provide school districts and high schools a waiver option from credit based graduation requirements to support performance-based education.

Statutory Authority for Adoption: RCW 28A.230.090, 28A.305.140, 28A.600.010.

Summary: Adoption will promote easy transition for school districts/high schools as they move toward performance-based education.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

Name of Proponent: State Board of Education.

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

Explanation of Rule, its Purpose, and Anticipated Effects: If adopted, the rules authorize the State Board of Education to implement and ensure compliance with basic education program requirements and allow districts a waiver option from credit based graduation requirements to support performance-based education.

Proposal Changes the Following Existing Rules: See Explanation above.

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. Not applicable.

Hearing Location: Department of Labor and Industries, 7273 Linderson Way, Tumwater, WA 98504-4400, on March 18, 1999, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Carolyn Berger by March 5, 1999, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by March 5, 1999.

Date of Intended Adoption: March 19, 1999.

February 1, 1999
Larry Davis
Executive Director

PROPOSED

AMENDATORY SECTION (Amending WSR 97-08-020, filed 3/25/97, effective 4/25/97)

WAC 180-51-050 High school credit—Definition. As used in this chapter the term "high school credit" shall mean:

(1) Grades nine through twelve high school programs. One hundred fifty hours of planned ~~((in-school instruction;))~~ instructional activities approved by the district.

(2) College and university course work. At the college or university level, ~~((except for community college adult high school completion programs;))~~ five quarter or three semester hours shall equal 1.0 high school credit ~~((; and))~~; Provided, That for the purpose of this subsection, "college and university course work" means course work that generally is designated 100 level or above by the college or university.

(3) Community college ~~((adult))~~ high school completion program - Diploma awarded by community college. Five quarter or three semester hours of community college high school completion course work shall equal 1.0 high school credit ~~((for students in the community college high school completion program))~~; Provided, That for purposes of awarding equivalency credit under this subsection, "college and university course work" means course work that is designated below the 100 level by the college and the course work is developmental education at grade levels nine through twelve.

(4) Community college high school completion program - Diploma awarded by school district. A minimum of .5 and a maximum of 1.0 high school credit may be awarded for every five quarter or three semester hours of community college high school completion course work: Provided, That for purposes of awarding equivalency credit under this subsection, "college and university course work" means course work that is designated below the 100 level by the college and the course work is developmental education at grade levels nine through twelve.

(5) Each high school district board of directors shall adopt a written policy for determining the awarding of equivalency credit authorized under subsection (4) of this section. The policy shall apply uniformly to all high schools in the district.

(6) A student must first obtain a written release from their school district to enroll in a high school completion program under subsection (3) of this section if the student has not reached age eighteen or whose class has not graduated.

NEW SECTION

WAC 180-18-055 Alternative high school graduation requirements. (1) The shift from a time and credit based system of education to a standards and performance based education system will be a multiyear transition. In order to facilitate the transition and encourage local innovation, the state board of education finds that current credit-based graduation requirements may be a limitation upon the ability of high

schools and districts to make the transition with the least amount of difficulty. Therefore, the state board will provide districts and high schools the opportunity to create and implement alternative graduation requirements.

(2) A school district, or high school with permission of the district board of directors, or approved private high school, desiring to implement a local restructuring plan to provide an effective educational system to enhance the educational program for high school students, may apply to the state board of education for a waiver from one or more of the requirements of chapter 180-51 WAC.

(3) The state board of education may grant the waiver for a period up to four school years.

(4) The waiver application shall be in the form of a resolution adopted by the district board of directors which includes a request for the waiver and a plan for restructuring the educational program of one or more high schools which consists of at least the following information:

(a) Identification of the requirements of chapter 180-51 WAC to be waived;

(b) Specific standards for increased student learning that the district or school expects to achieve;

(c) How the district or school plans to achieve the higher standards, including timelines for implementation;

(d) How the district or school plans to determine if the higher standards are met;

(e) Evidence that the board of directors, teachers, administrators, and classified employees are committed to working cooperatively in implementing the plan;

(f) Evidence that students, parents, and citizens were involved in developing the plan; and

(g) Identification of the school years subject to the waiver.

(5) A waiver of WAC 180-51-060 may be granted only if the district or school provides documentation and rationale that any noncredit based graduation requirements that will replace in whole or in part WAC 180-51-060, will support the state's performance-based education system being implemented pursuant to RCW 28A.630.885, and the noncredit based requirements meet the minimum college core admissions standards as accepted by the higher education coordinating board for students planning to attend a baccalaureate institution.

(6) A waiver granted under this section may be renewed upon the state board of education receiving a renewal request from the school district board of directors. Before filing the request, the school district shall conduct at least one public meeting to evaluate the educational requirements that were implemented as a result of the waiver. The request to the state board shall include information regarding the activities and programs implemented as a result of the waiver, whether higher standards for students are being achieved, assurances that students in advanced placement or other postsecondary options programs, such as but not limited to college in the high school, running start, and tech-prep, shall not be disadvantaged, and a summary of the comments received at the public meeting or meetings.

(7) The state board of education shall notify the state board for community and technical colleges and the higher

education coordinating board of any waiver granted under this section.

(8) Any waiver requested under this section will be granted with the understanding that the state board of education will affirm that students who graduate under alternative graduation requirements have in fact completed state requirements for high school graduation in a nontraditional program.

NEW SECTION

WAC 180-51-107 Alternative high school graduation requirements. Alternative high school graduation requirements may be established under WAC 180-18-055.

WSR 99-04-093

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed February 3, 1999, 8:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-111.

Title of Rule: Chapter 16-200 WAC, Feeds, fertilizers and livestock remedies, WAC 16-200-695 Definitions, 16-200-705 Purpose, and 16-200-7061 What information must I include with my registration application concerning metals and application rates?

Purpose: The proposed language requires the disclosure of a maximum application rate on fertilizer registration application forms for all commercial fertilizers that contain application rates on their labels so that the department can clearly determine if the commercial fertilizer meets the Washington standards for metals.

Statutory Authority for Adoption: RCW 15.54.325 and 15.54.800.

Statute Being Implemented: Chapter 15.54 RCW.

Summary: The proposed rules adopt a definition for "maximum application rate"; require the disclosure of a maximum application rate on fertilizer registration application forms for all fertilizers with labels that contain application rates; and provide a purpose statement which encompasses this new requirement.

Reasons Supporting Proposal: Before a commercial fertilizer may be registered in Washington, the department must determine if the fertilizer meets Washington standards for total metals. A commercial fertilizer label may contain directions for fertilizer application that varies in frequency and rate by crop or site.

Currently, the department must review all of the rates on the label to determine which one is the maximum rate and often must make assumptions about the area being covered and/or the number of times a fertilizer can be applied per year to reach a maximum application rate. The department needs to be given an accurate maximum application rate to use when registering commercial fertilizers to eliminate the need to make assumptions about application rate.

Requiring a maximum application rate on the fertilizer application form will enable the person submitting the registration application to specify the one maximum application rate for each fertilizer. The department will use that rate in its calculations to determine if a commercial fertilizer may be registered. Only those fertilizers which have application rates on their labels will need to specify a maximum application rate.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ted Maxwell, 1111 Washington Street, Olympia, WA, (360) 902-2026.

Name of Proponent: Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed language will require that fertilizer registrants disclose a maximum application rate on their fertilizer registration product application form for each commercial fertilizer that contains application rates that they register in Washington. This disclosure will clarify a maximum application rate for commercial fertilizer that has varying application rates for different sites or crops, multiple applications in a single year, varying frequencies of application, unspecified size of areas to which the fertilizer is applied, and other vague language found on fertilizer labels regarding application rates. Currently, the department has to make many assumptions regarding the rate of application of a fertilizer. These assumptions do not allow the department to accurately determine if a fertilizer meets the Washington standards for metals adopted by the 1998 legislature. This proposed language will ensure that the department is using an accurate application rate when determining whether a commercial fertilizer meets Washington standards.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. A full small business economic impact statement was completed by the department in the development of rules that would implement the new Fertilizer Regulation Act of 1998 (WSR 98-19-128). This previous small business economic impact statement took into account all of the costs associated with the registration of fertilizers according to the new rules. These costs included the cost of filling out registration application forms. The addition of one column to the form that would require a declaration of an annual application rate for each fertilizer is minimal and the cost to do so minor thus a small business economic impact statement is not needed.

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: WA Interactive Technologies, 710 Sleater-Kinney Road S.E., Suite Q, Lacey, WA 98503; at WA Interactive Technologies, North 1101 Argonne, Suite 109, Spokane, WA 99201; and at WA Interactive Technologies, Yesterday's Village, 15 West Yakima Avenue, Suite 220, Yakima, WA 98902, on March 10, 1999, at 6:00 p.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by March 9, 1999, TDD (360) 902-1996.

Submit Written Comments to: Laurie Mauerman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2093, by 5:00 p.m. on March 11, 1999.

Date of Intended Adoption: March 31, 1999.

February 3, 1999

Bob Arrington

Assistant Director

AMENDATORY SECTION (Amending Order 2066 [WSR 99-02-035], filed 12/7/90 [12/30/98], effective 1/7/91 [1/30/99])

WAC 16-200-695 Definitions. The definitions set forth in this section shall apply throughout this chapter unless context otherwise requires:

(1) "Organic" means a material containing carbon and one or more elements (other than hydrogen and oxygen) essential for plant growth. When the term "organic" is utilized in the label or labeling of any commercial fertilizer, it shall be qualified as either "synthetic organic" or "natural organic," with the percentage of each specified.

(2) "Natural organic" means a material derived from either plant or animal products containing carbon and one or more elements (other than hydrogen and oxygen) essential for plant growth.

(3) "Synthetic organic" means a material that is manufactured chemically (by synthesis) from its elements and other chemicals, containing carbon and one or more elements (other than hydrogen and oxygen) essential for plant growth.

(4) "Unit" means one percent (by weight) of a ton.

(5) "AOAC" means the association of official analytical chemists.

(6) "Commercial fertilizer" means a substance containing one or more recognized plant nutrients and that is used for its plant nutrient content or that is designated for use or claimed to have value in promoting plant growth, and shall include limes, gypsum, and manipulated animal and vegetable manures. It does not include unmanipulated animal and vegetable manures, organic waste-derived material, and other products exempted by the department by rule.

(7) "Fertigation" means a method of applying commercial fertilizers with irrigation water to fertilize land or plants.

(8) "Fertilizer component" means a commercial fertilizer ingredient containing one or more recognized plant nutrients which is incorporated in the commercial fertilizer for its plant nutrient value.

(9) "Maximum acceptable cumulative metals additions to soil" means the amount of total metals that can be added to soil over a forty-five-year period of time without exceeding the Canadian standards which have been adopted in RCW 15.54.800(3) as Washington standards for metals.

(10) "Organic waste-derived material" means grass clippings, leaves, weeds, bark, plantings, prunings, and other vegetative wastes, uncontaminated wood waste from logging and milling operations, food wastes, food processing wastes, and materials derived from these wastes through composting. "Organic waste-derived material" does not include products that include biosolids.

(11) "Maximum application rate" means the maximum amount of commercial fertilizer expressed by weight (such as: pounds, ounces, kilograms, or milligrams) or volume (such as: gallons, quarts, fluid ounces, liters, or milliliters) to be applied to an area of a specified size (such as: acres, square feet, hectares, or square meters) in a period of time stated in years.

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

AMENDATORY SECTION (Amending Order 2066 [WSR 99-02-035], filed 12/7/90 [12/30/98], effective 1/7/91 [1/30/99])

WAC 16-200-705 Purpose. The following sections concerning the protection of ground water, labeling requirements and examination of fertilizer minerals and limes (WAC 16-200-708 through 16-200-742) are established in this chapter under the authority of the Commercial Fertilizer Act, chapter 15.54 RCW.

This chapter also describes the requirements for registration of commercial fertilizers, including the information which must be submitted as part of the registration application, the sample preparation and analysis methods which must be used, the maximum application use rates the department will use to determine whether a commercial fertilizer may be registered, the Washington standards for metals (in pounds per acre per year), and the acts which are unlawful under this chapter.

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

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

AMENDATORY SECTION (Amending Order — [WSR 99-02-035], filed 12/30/98, effective 1/31/98 [1/30/99])

WAC 16-200-7061 What information must I include with my registration application concerning total metals and application rates? (1) You are required to submit the following metals information with your registration application:

(a) Total concentration of each metal in each commercial fertilizer reported in parts per million (PPM) which is equivalent to milligrams of metal per kilogram of fertilizer (mg/kg), or micrograms per gram;

(b) Copy of the laboratory report on total metals analysis;

(c) Method of analysis;

(d) Method of sample preparation; and

(e) Minimum detection limits for each method used.

(2) The department may request quality assurance and quality control documentation for analytical procedures and/or for the laboratory which performed the analyses.

(3) The analytical data and maximum application rate will be used to determine if a commercial fertilizer meets or exceeds the Washington standards for metals.

(4) For all commercial fertilizers that have application rates on their labels, the maximum application rate shall be

disclosed for each commercial fertilizer on the registration application form.

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

WSR 99-04-102
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(WorkFirst Division)
[Filed February 3, 1999, 9:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-22-056.

Title of Rule: WAC 388-400-0020 General assistance for pregnant women—General eligibility requirements and 388-484-0005 Five year time limit for TANF and SFA.

Purpose: Apply the sixty-month time limit to GA-S cash assistance.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08A.010.

Summary: Applies the sixty-month time limit to GA-S cash assistance.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dennis Vercillo, Work-First Division, P.O. Box 45480, Olympia, WA 98504-5480, (360) 413-3093, e-mail vercidl@dshs.wa.gov.

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: Applies the sixty-month time limit to GA-S cash assistance.

Proposal Changes the Following Existing Rules: It will amend WAC 388-400-0020 and 388-484-0005 so that the sixty-month time limit will apply to GA-S cash benefits.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses. It only affects DSHS clients.

RCW 34.05.328 applies to this rule adoption. RCW 34.05.328 (5)(b)(vii) exempts DSHS 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 March 9, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall, 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.

PROPOSED

Date of Intended Adoption: April 1, 1999.

January 29, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-400-0020 General assistance for pregnant women—General eligibility requirements. (1) To be eligible for general assistance for pregnant women (GA-S), a woman must:

(a) Meet the requirements of WAC 388-462-0005; and
(b) Meet the general assistance citizenship/alien status requirements under WAC 388-424-0005(3); and

(c) Be in financial need according to temporary assistance for needy families (TANF) income and resource rules in chapters 388-450, 388-470 and 388-488 WAC; and

(d) Provide a Social Security number as required under WAC 388-476-0005; and

(e) Reside in the state of Washington as required under WAC 388-468-0005.

(2) A woman is not eligible for GA-S if she:

(a) Is eligible for or her needs are being met by the Supplemental Security Income (SSI) program TANF or state family assistance (SFA);

(b) Is under sanction for failing to comply with SSI requirements;

(c) Fails or refuses to cooperate without good cause in obtaining SSI; or

(d) Fails or refuses to cooperate in obtaining TANF or SFA. This includes disqualifications for:

(i) Convictions for misrepresenting residence to obtain assistance in two or more states as specified under chapter 388-446 WAC;

(ii) Convictions for drug-related felonies and failing to complete drug treatment as specified under chapter 388-442 WAC;

(iii) Failing to report a child's absence within five days of becoming reasonably certain the absence will exceed ninety days as specified in chapter 388-418 WAC; or

(iv) Failing to meet school attendance requirements for unmarried teen parents as specified under chapter 388-486 WAC.

(3) The assistance unit for a woman applying for or receiving GA-S will be established according to WAC 388-408-0010.

(4) Unmarried pregnant or parenting minors who are not emancipated under a court decree must meet the living arrangement requirements of WAC 388-486-0005.

(5) A pregnant woman in an institution may be eligible for GA-S as specified under WAC 388-230-0080.

(6) Effective May 1, 1999, GA-S cash benefits will count toward the sixty-month time limit as specified under WAC 388-484-0005.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-484-0005 Five year time limit for TANF ~~((and)), SFA, and GA-S cash benefits.~~ (1) A family is ~~((not))~~ eligible for TANF or SFA if the family does not include ~~((s))~~ an adult who ~~((has))~~ received ~~((TANF or SFA for))~~ sixty months ~~((after))~~ of:

(a) TANF or SFA beginning August 1, 1997; or

(b) GA-S cash benefits beginning May 1, 1999.

(2) ~~((In calculating the number of months an adult family member has received TANF or SFA,))~~ The sixty-month time limit does not need to be consecutive and can include a combination of TANF, SFA, or GA-S cash benefits.

(3) A month ~~((is))~~ does not ~~((counted if the adult received assistance))~~ count towards the sixty-month time limit when:

(a) An adult received cash benefits as a minor child who was not the head of a household or married to the head of a household. A minor child is not the head of a household when residing with ~~((a))~~:

(i) Their parent ~~((s))~~(s);

(ii) A legal guardian ~~((or other))~~;

(iii) An adult relative ~~((or living in a department approved living arrangement under the supervision of))~~; or

(iv) A nonrelated adult ~~((or))~~ in a department approved living arrangement.

(b) When living in Indian country, as defined under 18 U.S.C. 1151, or an Alaskan Native village, if during the months the individual received TANF ~~((or))~~, SFA, or GA-S cash assistance at least fifty percent of the adults living on the reservation or in the village were unemployed.

~~((3) An adult who has received fifty two months of TANF or SFA may be exempted from the five year time limit for reasons of hardship or family violence if the total number of exempted cases does not exceed twenty percent of the average monthly number of TANF and SFA cases statewide during a fiscal year.))~~

WSR 99-04-104

PROPOSED RULES

PUGET SOUND AIR

POLLUTION CONTROL AGENCY

[Filed February 3, 1999, 9:49 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under 70.94.141(1).

Title of Rule: Amending Sections 3.03, 3.04, 8.04, 9.03, 9.11, and 9.15 of Regulation I; and repealing Section 9.12 of Regulation I.

Purpose: Exempt obscurants during military training exercises from agency's opacity standard; specify method used by the agency to determine if odors are sufficient to constitute a nuisance; establish a process for determining if appropriate control technology is being used by existing sources; and clarify agency's dust control requirements.

Other Identifying Information: Section 3.03 - General Regulatory Orders; 3.04 - Reasonably Available Control

PROPOSED

Technology; 8.04 - General Conditions for Outdoor Fires; 9.03 - Emission of Air Contaminant: Visual Standard; 9.11 - Emission of Air Contaminant: Detriment to Person or Property; 9.12 - Odor and Nuisance Control Measures; 9.15 Fugitive Dust Control Measures.

Statutory Authority for Adoption: Chapter 70.94 RCW.
Statute Being Implemented: RCW 70.94.141.

Summary: Section 3.03 would be amended to include the Regulatory Order fees presently in Section 3.04. Section 3.04 would be amended to include a Reasonably Available Control Technology (RACT) requirement and a process for determining RACT.

Section 9.03 would be amended to include exemptions for military training exercises and outdoor fires.

Section 9.11 would be amended to include the method used to determine whether odors are sufficient to constitute a nuisance. Section 9.12 would be repealed.

Section 9.15 would be amended as follows:

(a) The existing provision requiring BACT would be replaced with a provision requiring reasonable precautions and a list of precautions to be employed.

(b) The existing provision pertaining to spillage and track-out of fugitive dust from motor vehicles would be listed as a reasonable precaution.

(c) The existing provision prohibiting fugitive dust emissions from refuse burning and fuel burning equipment, and equipment used in a manufacturing process would be repealed.

(d) The existing provision regarding detriment to person or property would be replaced with a provision stating that compliance with Section 9.15 does not relieve any person from the responsibility to comply with Section 9.11.

Reasons Supporting Proposal: The agency needs to be able to resolve complaints (e.g., odor) about existing sources. Military training operations are essential for national defense. The public needs to know how the agency enforces odor nuisance cases. Sources need to understand the agency's dust control requirements. Prima facie evidence statements need to have legal foundation. Operating permit sources need to be able to certify compliance.

Name of Agency Personnel Responsible for Drafting: Gerry Pade, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4065; Implementation: Dave Kircher, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4050; and Enforcement: Neal Shulman, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4078.

Name of Proponent: Puget Sound Air Pollution Control Agency, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The state implementation plan will be updated to reflect these amendments.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The agency is proposing to revise its nuisance regulations to specify the method used to determine whether odors are sufficient to constitute a nuisance and to establish a process for determining whether existing sources are employing the appropriate control technology. Regulation I, Sec-

tions 9.12 and 9.15 presently require Best Available Control Technology (BACT) for odor and dust, respectively. However, the only process for determining BACT is a Notice of Construction and the statutory authority for requiring a Notice of Construction is limited to new or modified sources. The agency is also proposing to add an exemption from its opacity standard for certain military training exercises.

Proposal Changes the Following Existing Rules: The amendments to Section 3.04(a) come directly from RCW 70.94.154(1). The amendments to Section 3.04(b) were taken from Section 3.05, Investigations by the Control Officer, which comes directly from RCW 70.94.200. The proposed addition of Section 3.04(c) comes directly from RCW 70.94.154 (2) and (3). The proposed addition of Section 3.04(d) comes directly from RCW 70.94.154(7). The proposed addition of Section 3.04(e) comes directly from WAC 173-400-040.

The amendments to Section 3.03 relocate the existing regulatory order fees from Section 3.04. The fee would not change. However, the wording would change to reflect that the board may unilaterally impose a regulatory order.

The amendment to Section 9.03 exempting outdoor fires comes directly from Section 8.04. The exemption for military training obscurants is new.

The proposed amendments to Section 9.15 come directly from WAC 173-400-040 (8)(a), with some elaboration on what 'reasonable precautions' are.

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 the Administrative Procedure Act.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Puget Sound Air Pollution Control Agency Offices, 110 Union Street, #500, Seattle, WA 98101, on March 11, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010, by March 4, 1999, TDD (800) 833-6388, or (800) 833-6385 (Braille).

Submit Written Comments to: Dennis McLerran, Puget Sound Air Pollution Control Agency, 110 Union Street, #500, Seattle, WA 98101, fax (206) 343-7522, by March 1, 1999.

Date of Intended Adoption: March 11, 1999.

February 2, 1999

Gerald S. Pade

Air Pollution Engineer

AMENDATORY SECTION

REGULATION I SECTION 3.03 GENERAL REGULATORY ORDERS

(a) **Purpose.** The Board may, by regulatory order, apply to a specific source or sources any applicable provision of chapter 70.94 RCW or the rules adopted thereunder.

(b) **Public Involvement Process.** The Board may issue a regulatory order after the following public involvement process has been completed:

PROPOSED

(1) Public notice of the proposed order shall be published in a newspaper of general circulation in the area where the source that is the subject of the order is located. Notice shall also be sent to the U.S. Environmental Protection Agency Regional Administrator. The public notice shall include, at a minimum, the following information:

(A) The name and address of the owner or operator and the source;

(B) A brief description of the purpose of the proposed order and the requirements included in the proposed order;

(C) The deadline for submitting written comments to PSAPCA; and

(D) The opportunity for a public hearing if PSAPCA determines that there is significant public interest in the proposed order.

(2) The initial public comment period shall be at least 30 days.

(3) During the initial 30-day public comment period, any person may request a public hearing be held. Any such request shall be submitted in writing to the Agency, shall indicate the interest of the entity filing it, and describe why a hearing is warranted. The Agency may, at its discretion, hold a public hearing if it determines significant public interest exists. Any such hearing shall be held before a hearing officer and upon such notice and at a time and place as the Agency deems reasonable. The hearing officer shall hear testimony at the public hearing and prepare a written summary of the testimony received at the hearing. The Agency shall provide at least 30 days prior notice of any hearing. If a public hearing is held, the public comment period shall extend through the hearing date.

(c) **Board Action.** The Board shall only issue an order under this section after:

(1) The public comment period has ended;

(2) Any public hearing scheduled has been held; and

(3) The Board has considered all information and data related to the proposed order received by PSAPCA, including all written comments received and any summary of testimony prepared by the hearing officer.

The Board shall take action on a proposed order at a Board meeting. Unless otherwise ordered by the Board, an order issued under this section shall be effective on the date the Board approves the order.

(d) **Appeals.** Orders issued by the Board under this section may be appealed to the Pollution Control Hearings Board pursuant to Section 3.17 of Regulation I and RCW 43.21B.310.

(e) **Fees.** The Agency shall assess a fee of \$1,000.00 to cover the costs of processing and issuing a general regulatory order under this section; and the Agency shall also assess a fee equal to the cost of providing public notice in accordance with Section 3.03(b) of this regulation. These fees shall be due and payable within 30 days of the date of the invoice and shall be deemed delinquent if not fully paid within 90 days of the invoice.

AMENDATORY SECTION

REGULATION I SECTION 3.04 ((GENERAL REGULATORY ORDER FEES)) REASONABLY AVAILABLE CONTROL TECHNOLOGY

~~((a) The applicant must pay a fee of \$1,000.00 to the Agency when submitting an application for a general regulatory order under Section 3.03 of Regulation I; and~~

~~(b) The applicant must pay to the Agency a fee equal to the cost of providing public notice in accordance with Section 3.03(b) of Regulation I;))~~

(a) It shall be unlawful for any person to cause or allow the operation of any source unless reasonably available control technology (RACT), as defined in Section 1.07 of this regulation, is employed.

(b) For the purpose of determining compliance with this requirement, the Control Officer or a duly authorized representative shall have the authority to perform a RACT analysis of a source or to order the owner or operator to have a RACT analysis performed and to submit the results to the Agency.

(c) Source-specific RACT determinations, as described in Section 3.04(b) of this regulation, may be performed under any of the following circumstances:

(1) For replacement of existing control equipment under Article 6 of this regulation;

(2) When required by the federal Clean Air Act;

(3) For sources in source categories containing fewer than 3 sources;

(4) When an air quality problem, for which the source is a contributor, justifies a source-specific RACT determination prior to development of a categorical RACT rule; or

(5) When a source-specific RACT determination is needed to address either specific air quality problems, for which the source is a significant contributor, or source-specific economic concerns.

(d) In the event that the Agency performs a RACT analysis of a source, the Agency shall assess a fee of \$5,000.00 from that source to cover the costs of performing the analysis. This fee shall be due and payable within 30 days of the date of the invoice and shall be deemed delinquent if not fully paid within 90 days of the invoice.

(e) Where current controls are determined to be less than RACT, the Agency shall define RACT for that source or source category and issue a rule or a regulatory order under Section 3.03 of this regulation requiring the installation of RACT.

AMENDATORY SECTION

REGULATION I SECTION 8.04 GENERAL CONDITIONS FOR OUTDOOR FIRES

(a) The provisions of Sections ~~((9-03-))~~ 9.05~~((;))~~ and 9.15 of Regulation I shall not apply to outdoor fires.

(b) Nothing contained in Article 8 shall be construed to allow outdoor fires in those areas in which open burning is prohibited by laws, ordinances, or regulations of the state or any city, county, or fire district.

(c) Nothing contained in Article 8 shall relieve the applicant from obtaining permits required by any state or local fire

protection agency or from compliance with the Uniform Fire Code.

AMENDATORY SECTION

REGULATION I SECTION 9.03 EMISSION OF AIR CONTAMINANT: VISUAL STANDARD

(a) It shall be unlawful for any person to cause or allow the emission of any air contaminant for a period or periods aggregating more than 3 minutes in any 1 hour, which is:

(1) Darker in shade than that designated as No. 1 (20% density) on the Ringelmann Chart, as published by the United States Bureau of Mines; or

(2) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in Section 9.03 (a)(1).

(b) The density or opacity of an air contaminant shall be measured at the point of its emission, except when the point of emission cannot be readily observed, it may be measured at an observable point of the plume nearest the point of emission.

(c) This section shall not apply when the presence of uncombined water is the only reason for the failure of the emission to meet the requirements of this section.

(d) This section shall not apply to solid fuel burning devices, permitted fire training facilities, permitted obscurant usage during military training operations, outdoor fires, motor vehicles when operated on public roads, aircraft, or equipment subject to Section 9.04.

(e) This section shall not apply to equipment with an alternate opacity standard issued under Section 3.03 or Section 6.07 that is based upon a correlation with the particulate concentration and that accurately indicates a violation of the applicable particulate emission standards in Section 9.09.

AMENDATORY SECTION

REGULATION I SECTION 9.11 EMISSION OF AIR CONTAMINANT: DETRIMENT TO PERSON OR PROPERTY

(a) It shall be unlawful for any person to cause or allow the emission of any air contaminant in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

(b) ~~((A Notice of Violation of this section may be issued based upon an affidavit from the person making the complaint and verification by the Control Officer or a duly authorized representative.))~~ With respect to odor, the Agency may take enforcement action under this section if the Control Officer or a duly authorized representative has documented all of the following:

(1) The detection by the Control Officer or a duly authorized representative of an odor at a level 2 or greater, according to the following odor scale:

level 0 - no odor detected;

level 1 - odor barely detected;

level 2 - odor is distinct and definite, any unpleasant characteristics recognizable;

level 3 - odor is objectionable enough or strong enough to cause attempts at avoidance; and

level 4 - odor is so strong that a person does not want to remain present;

(2) An affidavit from a person making a complaint that demonstrates that they have experienced air contaminant emissions in sufficient quantities and of such characteristics and duration so as to unreasonably interfere with their enjoyment of life and property; and

(3) The source of the odor.

(c) Nothing in this Regulation shall be construed to impair any cause of action or legal remedy of any person, or the public for injury or damages arising from the emission of any air contaminant in such place, manner or concentration as to constitute air pollution or a common law nuisance.

REPEALER

REGULATION I SECTION 9.12 ODOR AND NUISANCE CONTROL MEASURES

AMENDATORY SECTION

REGULATION I SECTION 9.15 FUGITIVE DUST(+(EMISSION STANDARD)) CONTROL MEASURES

~~((a) It shall be unlawful for any person to cause or allow the emission of fugitive dust unless such person uses the best available control technology to control the emissions.~~

~~(b) It shall be unlawful for any person to cause or allow a vehicle to be operated on a paved roadway open to the public:~~

~~(1) Unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, and except road construction and maintenance by public agencies.~~

~~(2) With a load of dirt, sand, gravel, or other material susceptible to being dropped, spilled, or otherwise escaping therefrom unless it is covered or has adequate freeboard so as to prevent spillage.~~

~~(3) With deposits of mud, dirt, or other debris on the vehicle's body, fenders, frame, undercarriage, wheels, or tires.~~

~~Deposits of particulate matter on a paved roadway open to the public shall be prima facie evidence of a violation of Section 9.15(b).~~

~~(c) It shall be unlawful for any person to cause or allow the emission of fugitive dust from any refuse burning equipment, fuel burning equipment, equipment used in a manufacturing process, or control equipment.~~

~~(d) It shall be unlawful for any person to cause or allow the emission of fugitive dust in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.))~~

(a) It shall be unlawful for any person to cause or allow visible emissions of fugitive dust unless reasonable precau-

tions are employed to minimize the emissions. Reasonable precautions include, but are not limited to, the following:

(1) The use of control equipment, enclosures, and wet (or chemical) suppression techniques, as practical, and curtailment during high winds;

(2) Surfacing roadways and parking areas with asphalt, concrete, or gravel;

(3) Treating temporary, low-traffic areas (e.g., construction sites) with water or chemical stabilizers, reducing vehicle speeds, constructing pavement or rip rap exit aprons, and cleaning vehicle undercarriages before they exit to prevent the track-out of mud or dirt onto paved public roadways; and

(4) Covering or wetting truck loads or allowing adequate freeboard to prevent the escape of dust-bearing materials.

(b) Compliance with the provisions of this section shall not relieve any person from the responsibility to comply with Section 9.11 of this regulation.

WSR 99-04-105

PROPOSED RULES

PUGET SOUND AIR POLLUTION CONTROL AGENCY

[Filed February 3, 1999, 9:54 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under 70.94.141(1).

Title of Rule: Amending Regulation I, Sections 1.07, 6.03, 6.04, 6.06, and 6.07.

Purpose: To ensure the Puget Sound Air Pollution Control Agency's new source review requirements are consistent with federal requirements.

Other Identifying Information: 1.07 - Definitions; 6.03 - Notice of Construction; 6.04 - Notice of Construction Review Fees; 6.06 - Public Notice; 6.07 - Order of Approval—Order to Prevent Construction.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

Summary: This proposal incorporates language that is consistent with federal standards for construction or reconstruction of major sources of hazardous air pollutants (HAPs) - 112(g) of federal Clean Air Act.

Reasons Supporting Proposal: The Puget Sound Air Pollution Control Agency's new source review requirements need to be consistent with federal requirements.

Name of Agency Personnel Responsible for Drafting: Maggie Corbin, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4057; Implementation: Dave Kircher, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4050; and Enforcement: Neal Shulman, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4078.

Name of Proponent: Puget Sound Air Pollution Control Agency, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The state implementation plan will be updated to reflect these amendments.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal incorporates language for new source review requirements to ensure consistency with federal standards for construction or reconstruction of major sources of hazardous air pollutants (HAPs).

Proposal Changes the Following Existing Rules: This proposal will add definitions to Article 1 (Policy, Short Title, and Definitions) and incorporate language consistent with federal requirements into Article 6 (New Source Review).

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 the Administrative Procedure Act.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Puget Sound Air Pollution Control Agency Offices, 110 Union Street, #500, Seattle, WA 98101, on March 11, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010, by March 4, 1999, TDD (800) 833-6388, or (800) 833-6385 (Braille).

Submit Written Comments to: Dennis McLerran, Puget Sound Air Pollution Control Agency, 110 Union Street, #500, Seattle, WA 98101, fax (206) 343-7522, by March 1, 1999.

Date of Intended Adoption: March 11, 1999.

February 2, 1999

Margaret L. Corbin

Air Pollution Engineer

AMENDATORY SECTION

REGULATION I SECTION 1.07 DEFINITIONS

When used herein:

(a) **ACTUAL EMISSIONS** means the average rate at which the source actually emitted air contaminants during the 2-year period preceding a specific date, and which is representative of normal source operations. To account for unusual circumstances such as strikes, the Control Officer may approve or require the use of another time period that is more representative of normal operations than is the immediately preceding 2-year period.

(b) **AGENCY** means the Puget Sound Air Pollution Control Agency.

(c) **AIR CONTAMINANT** means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.

(d) **AIR POLLUTION** means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property. Air pollution shall not include air contaminants emitted in compliance with chapter 17.21 RCW, the Washington Pesticide Application Act, which regulates the application and control of the use of various pesticides.

(e) **ALLOWABLE EMISSIONS** means the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to a federally enforceable permit that limits the operating rate, or hours of operation, or both) and the most stringent of the following:

- (1) Any applicable standard under 40 CFR Parts 60, 61, and 63;
- (2) Any applicable emission standard under Regulation I, II, or III;
- (3) Any applicable State Implementation Plan emission standard, including those with a future compliance date; or
- (4) Any applicable emission standard specified in an Order of Approval or operating permit, including those with a future compliance date.

(f) **AMBIENT AIR** means the portion of the atmosphere, external to buildings, to which the general public has access.

(g) **BEST AVAILABLE CONTROL TECHNOLOGY** means technology that will result in an emission standard, including a visible emission standard, based on the maximum degree of reduction which the Agency, on a case-by-case basis, taking into account energy, environmental, and economic impacts, and other costs, determines is achievable for such source through application of production processes, available methods, systems, and techniques, including fuel cleaning or treatment, clean fuels, or innovative fuel combustion techniques for control of each air contaminant. In no event shall application of the best available control technology result in emissions of any air contaminant that would exceed the emissions allowed by any applicable standard under 40 CFR Parts 60, 61, and 63. The Agency may prescribe a design, equipment, work practice, or operational standard, or combination thereof, to meet the requirements of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means that achieve equivalent results.

(h) **BOARD** means the Board of Directors of the Puget Sound Air Pollution Control Agency.

(i) **COMBUSTIBLE REFUSE** means solid or liquid combustible waste material.

(j) **COMMENCED CONSTRUCTION** means that the owner or operator has all the necessary preconstruction approvals or permits and either has begun, or has caused to begin, a continuous program of actual on-site construction of the source or has entered into binding agreements or contractual obligations to undertake construction of the source which cannot be canceled or modified without substantial loss to the owner or operator.

(k) **CONTROL EQUIPMENT** means any device which prevents or controls the emission of any air contaminant.

(l) **CONTROL OFFICER** means the Air Pollution Control Officer of the Puget Sound Air Pollution Control Agency.

(m) **EMISSION** means a direct or indirect release of any air contaminant into the ambient air.

(n) **EMISSION STANDARD** means a requirement established under the Federal Clean Air Act (FCAA) or chapter 70.94 RCW that limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis includ-

ing any requirement relating to the operation or maintenance of a source to assure continuous emission reduction, and any design, equipment, work practice, or operational standard promulgated under the FCAA or chapter 70.94 RCW.

(o) **EQUIPMENT** means any stationary or portable device or any part thereof that emits or may emit any air contaminant into the atmosphere.

(p) **FACILITY** means the sum total of all of the pollutant emitting activities that belong to the same industrial grouping (as defined by major groups in the Standard Industrial Classification Manual, NTIS Order No. PB 87-100012), are located on one or more contiguous or adjacent properties, and are owned or operated by the same person or persons under common control.

(q) **FUEL BURNING EQUIPMENT** means equipment that produces hot air, hot water, steam, or other heated fluids by external combustion of fuel.

(r) **FUGITIVE DUST** means particulate matter or any visible air contaminant other than uncombined water that is not collected by a capture system and emitted from a stack, but is released to the atmosphere at the point of generation.

(s) **FUGITIVE EMISSION** means an emission that does not pass and that could not reasonably pass through a stack, chimney, or other functionally equivalent opening.

(t) **GASOLINE** means a volatile organic compound having a true vapor pressure greater than 1.5 pounds per square inch (10.3 kPa) at 68°F (20°C), that is a liquid at a temperature of 68°F (20°C) and a barometric pressure of 29.92 inches of mercury (101.325 kPa), and is used as a fuel for internal combustion engines.

(u) **GASOLINE STATION** means any site dispensing gasoline into fuel tanks of motor vehicles, marine vessels, or aircraft from stationary storage tanks.

(v) **HAZARDOUS AIR POLLUTANT** means any air pollutant listed in or pursuant to section 112(b) of the federal Clean Air Act, 42 U.S.C. §7412.

~~((w))~~ (w) **INSTALLATION** means the placement, assemblage, or construction of equipment or control equipment at the premises where the equipment or control equipment will be used, and includes all preparatory work at such premises.

~~((x))~~ (x) **LOWEST ACHIEVABLE EMISSION RATE** means that rate of emissions that reflects either the most stringent emission standard that is contained in the implementation plan of any state for such class or category of source unless the owner or operator of the proposed source demonstrates that such emission standards are not achievable, or the most stringent emission standard that is achieved in practice by such class or category of source, whichever is more stringent.

~~((y))~~ (y) **MAJOR MODIFICATION** means a modification of a major source that would increase the actual emissions of any air contaminant for which the area is designated nonattainment by more than the following:

Air Contaminant	Tons/Year
Carbon Monoxide	100.0
Volatile Organic Compounds	40.0
Nitrogen Oxides	40.0

PM ₁₀	15.0
Sulfur Dioxide	40.0
Lead	0.6

In determining whether the thresholds defining a major modification have been exceeded, the emissions permitted under Orders of Approval issued to the facility since the designation of nonattainment that were not major modifications, and all fugitive emission increases that can be reasonably quantified shall be included. Any emission reduction credits banked by the facility since the designation of nonattainment may be subtracted from this amount provided that any credits so applied are then considered to have been used. For modifications of an individual piece of equipment, the baseline shall be the source's actual emissions or allowable emissions, whichever is smaller. (Note: volatile organic compounds and nitrogen oxides are the air contaminants for which an area is designated nonattainment for ozone.)

(y) **(z) MAJOR SOURCE** means a facility that emits or has the potential to emit 100 tons per year or more of any air contaminant subject to regulation under the federal Clean Air Act. In determining whether the threshold defining a major source has been exceeded all fugitive emissions that can be reasonably quantified shall be included. Any emission reduction credits banked by the facility may be subtracted from this amount provided that any credits so applied are then considered to have been used.

(aa) MAJOR SOURCE OF HAZARDOUS AIR POLLUTANTS means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of hazardous air pollutants or 25 tons per year or more of any combination of hazardous air pollutants. In calculating potential to emit for a source of hazardous air pollutant emissions, all fugitive emissions of hazardous air pollutants associated with the source shall be included.

(bb) MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY EMISSION LIMITATION FOR NEW SOURCES means the emission limitation that is not less stringent than the emission limitation achieved in practice by the best controlled similar source, and that reflects the maximum degree of reduction in emissions, taking into consideration the cost of achieving such emission reductions, and any non-air quality health and environmental impacts and energy requirements.

(z) **(cc) MODIFICATION** means any physical change in, or change in the method of operation of, a source, except an increase in the hours of operation or production rates (not otherwise prohibited) or the use of an alternative fuel or raw material that the source is approved to use under an Order of Approval or operating permit, that increases the amount of any air contaminant emitted or that results in the emission of any air contaminant not previously emitted.

(aa) **(dd) MOTOR VEHICLE** means any operating vehicle or one capable of being operated that has its own self-contained sources of motive power, is designed for the transportation of people or property, and is of the type for which a license is required for operation on a highway.

(bb) **(ee) MULTIPLE CHAMBER INCINERATOR** means a furnace for the destruction of waste consisting of three or more refractory-lined combustion chambers in series, physically separated by refractory walls, interconnected by gas passage ports or ducts, and employing adequate design parameters necessary for maximum combustion of the material to be burned.

(ee) **(ff) NONATTAINMENT AREA** means a geographic area designated by the United States Environmental Protection Agency that violates a primary or secondary national ambient air quality standard.

(dd) **(gg) OWNER OR OPERATOR** means the person who owns, leases, supervises, or operates the equipment or control equipment.

(ee) **(hh) PARTICULATE MATTER** means any material, except water in an uncombined form, that is, has been, or is likely to become airborne and exists as a liquid or a solid at a temperature of 68°F (20°C) and a barometric pressure of 29.92 inches of mercury (101.325 kPa).

(ff) **(ii) PERSON** means and includes any individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or governmental agency.

(gg) **(jj) PM10** means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on Appendix J of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

(hh) **(kk) POTENTIAL TO EMIT** means the maximum capacity of a facility to emit an air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of the facility to emit an air contaminant, including control equipment and restrictions on the hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable.

(ii) **(ll) REASONABLY AVAILABLE CONTROL TECHNOLOGY** means the lowest emission standard that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. Reasonably available control technology is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls.

(jj) **(mm) REFUSE BURNING EQUIPMENT** means equipment employed to burn any solid or liquid combustible refuse.

(kk) **(nn) SOURCE** means a building, structure, equipment, control equipment, or facility that emits or may emit any air contaminant into the atmosphere.

(H) **(oo) STANDARD CONDITIONS** means a temperature of 68°F and a barometric pressure of 29.92 inches of mercury.

PROPOSED

~~((mm))~~ (pp) **TOTAL ALLOWABLE EMISSIONS** means allowable emissions, including the emissions from all Orders of Approval issued to the facility since the designation of nonattainment that were not major modifications, and all fugitive emissions that can be reasonably quantified.

~~((nn))~~ (qq) **TOXIC AIR CONTAMINANT** or TAC means an air contaminant listed in Appendix A of Regulation III.

~~((oo))~~ (rr) **TRUE VAPOR PRESSURE** means the equilibrium partial pressure of an organic liquid (determined by methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss from External Floating Roof Tanks", May 1996).

~~((pp))~~ (ss) **URBANIZED AREA** means those portions of King, Pierce, Kitsap, and Snohomish Counties designated as urbanized areas by the U.S. Department of Commerce, Bureau of the Census.

~~((qq))~~ (tt) **VOLATILE ORGANIC COMPOUND** or VOC means an organic compound that participates in atmospheric photochemical reactions. This excludes all compounds determined to have negligible photochemical reactivity by the U.S. Environmental Protection Agency and listed in 40 CFR 51.100(s) in effect July 1, 1998.

AMENDATORY SECTION

REGULATION I SECTION 6.03 NOTICE OF CONSTRUCTION

(a) It shall be unlawful for any person to cause or allow the construction, installation, establishment, or modification of an air contaminant source, except those sources that are excluded in Section 6.03(b), unless a "Notice of Construction and Application for Approval" has been filed with and approved by the Agency.

(b) Except when part of a new major source or major modification in a nonattainment area, or when constructing or reconstructing a major source of hazardous air pollutants, the following air contaminant sources do not need a "Notice of Construction and Application for Approval" approved by the Agency prior to construction, installation, establishment, or modification:

- (1) Ventilating systems, including fume hoods, not designed to prevent or reduce air contaminant emissions.
- (2) Fuel burning equipment that has a maximum input rate of:
 - (A) less than 0.5 million Btu per hour (0.15 million joules per second) burning waste-derived fuel; or
 - (B) less than 10 million Btu per hour (3 million joules per second) burning natural gas, propane, or butane; or
 - (C) less than 1 million Btu per hour (0.3 million joules per second) burning any other fuel.
- (3) Insecticide, pesticide, or fertilizer spray equipment.
- (4) Internal combustion engines less than the size thresholds of the proposed United States Environmental Protection Agency (EPA) New Source Performance Standards (NSPS) 40 CFR Part 60 Subpart FF (Stationary Internal Combustion Engines, 44 FR 43152 7/23/79) or the promulgated EPA NSPS 40 CFR Part 60 Subpart GG (Stationary Gas Turbines).

(5) Laboratory equipment used exclusively for chemical or physical analyses.

(6) Laundry dryers without control equipment.

(7) Dryers or ovens used solely to accelerate evaporation.

(8) Routing, turning, carving, cutting, and drilling equipment used for metal, wood, plastics, rubber, leather, or ceramics which does not release air contaminants to the ambient air.

(9) Storage tanks:

(A) that do not store substances capable of emitting air contaminants; or

(B) with a rated capacity of 1,000 gallons (3,780 liters) or less used for storage of gasoline; or

(C) with a rated capacity of less than 10,000 gallons (38,000 liters) used for storage of volatile organic compounds; or

(D) with a rated capacity of less than 40,000 gallons (150,000 liters) used for storage of volatile organic compounds with a true vapor pressure less than 0.01 kPa (0.002 psia).

(10) Sanitary or storm drainage systems.

(11) Welding, brazing, or soldering equipment.

(12) Asphalt roofing and laying equipment (not including manufacturing or storage).

(13) Restaurants and other retail food-preparing establishments.

(14) Cold solvent cleaners using a solvent with a true vapor pressure less than or equal to 4.2 kPa (0.6 psia).

(15) Retail printing operations (not including web presses).

(16) Spray painting or blasting equipment used at a temporary location to clean or paint bridges, water towers, buildings, or similar structures.

(17) Any source that has been determined through review by the Control Officer not to warrant a "Notice of Construction and Application for Approval", due to the minimal amount and nature of air contaminants produced and potential to contribute to air pollution, with special reference to effects on health, economic and social factors, and physical effects on property. The owner or operator shall submit to the Control Officer, the information necessary to make this determination. The Control Officer shall notify the owner or operator in writing whether a "Notice of Construction and Application for Approval" is required for the source.

(c) Each Notice of Construction and Application for Approval shall be submitted on forms provided by the Agency and shall be accompanied by a set of plans that fully describes the proposed source, the means for prevention or control of the emissions of air contaminants, the appropriate fee as required by Section 6.04, and any additional information required by the Board or Control Officer to demonstrate that the proposed source will meet the requirements of Section 6.07.

(d) Within 30 days of receipt of a Notice of Construction and Application for Approval, the Agency shall notify the applicant in writing if any additional information is necessary to complete the application.

PROPOSED

AMENDATORY SECTION

REGULATION I SECTION 6.04 NOTICE OF CONSTRUCTION REVIEW FEES

A Notice of Construction and Application for Approval is incomplete until the Agency has received a fee as shown below:

General (not classified below) for each Piece of Equipment or	
Control Equipment	\$500
Minor NOC Change	\$500
NOC Applicability Determination	\$200
Relocation of Previously Permitted Portable Source to a New Address, except soil thermal desorption units	\$500
Asphalt Concrete Plant	\$1,000
Coffee Roaster	\$1,000
Composting Facility	\$2,500
Dry Cleaner (per machine)	\$300
Gasoline Station	\$500
Landfill Gas System	\$2,500
Refuse Burning Equipment: (rated capacity) 12 tons per day or less	\$5,000
greater than 12 tons per day but less than 250 tons per day	\$20,000
250 tons per day or greater	\$50,000
Spray-Painting Operation (per booth)	\$500
Storage Tanks excluding those at gasoline stations: (gallons)	
less than 20,000	\$300
20,000 or more	\$1,000
Soil Thermal Desorption Unit (initial)	\$3,000
Relocation of Approved Desorption Unit to New Address	\$1,000
Additional Charges: SEPA Threshold Determination	\$250
Air Toxics Review (under Regulation III, Section 2.07 (c) (2))	\$500
Air Toxics Review (under Regulation III, Section 2.07 (c) (3))	\$5,000
Major Source, Major Modification, or Emission Increases greater than Prevention of Significant Deterioration Thresholds (see Regulation I, Section 6.07(d))	\$5,000
<u>Construction or reconstruction of a major source of hazardous air pollutants (see Regulation I, Section 6.07 (f))</u>	<u>\$2,500</u>
Opacity/Grain Loading Correlation	\$5,000

Emissions Units Subject to an NSPS or NES-HAP (except residential wood heaters, asbestos renovation or demolition, and perchloroethylene dry cleaning)	\$1,000
Public Notice (plus publication fees)	\$500

AMENDATORY SECTION

REGULATION I SECTION 6.06 PUBLIC NOTICE

(a) The Agency shall provide public notice for any proposed Order of Approval if:

(1) The proposed installation or modification would increase the emissions of any air contaminant by more than the following:

Air Contaminant	Tons/Year
Carbon Monoxide	100.0
VOC	40.0
Nitrogen Oxides	40.0
PM ₁₀	15.0
Sulfur Dioxide	40.0
Lead	0.6
Fluorides	3.0
Sulfuric Acid	7.0
Total Reduced Sulfur	10.0

(2) The applicant requests a limit on the potential to emit;

(3) The applicant requests to bank emission reduction credits;

(4) The applicant requests approval of a risk analysis;

(5) The proposed installation or modification is construction or reconstruction of a major source of hazardous air pollutants subject to the requirements in Section 6.07(f);

~~((5))~~ (6) The proposed installation or modification involves refuse burning equipment; or

~~((6))~~ (7) The Control Officer determines that there may be substantial public interest in the proposal.

(b) Public notice shall be published in a newspaper of general circulation in the area of the proposed project and shall include the following:

(1) The name and address of the owner or operator and the facility;

(2) A brief description of the proposal;

(3) The locations at which copies of the preliminary determination and a summary of information considered in making such preliminary determination are available for public inspection;

(4) The deadline for submitting written comment; and

(5) That a public hearing may be held if the Agency determines within a 30-day period that significant public interest exists.

(c) Notice shall also be sent to the U.S. Environmental Protection Agency Regional Administrator.

(d) The cost of providing public notice shall be borne by the applicant.

(e) The Agency shall not make a final decision on any application until the public comment period has ended and

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any comments received have been considered. Unless a public hearing is held, the public comment period shall be the 30-day period for written comment published as provided above. If a public hearing is held, the public comment period shall extend through the hearing date.

(f) The applicant, any interested governmental entity, any group, or any person may request a public hearing within the 30-day period published as provided above. Any such request shall indicate the interest of the entity filing it and why a hearing is warranted. The Agency may, at its discretion, hold a public hearing if it determines significant public interest exists. Any such hearing shall be held upon such notice and at a time and place as the Agency deems reasonable. The Agency shall provide at least 30 days prior notice of any hearing.

AMENDATORY SECTION

REGULATION I SECTION 6.07 ORDER OF APPROVAL - ORDER TO PREVENT CONSTRUCTION

(a) Within 60 days of receipt of a complete Notice of Construction and Application for Approval, or as promptly as possible after the close of the public comment period if subject to the public notice requirements of Section 6.06 of this Regulation, the Board or Control Officer shall issue an Order of Approval or ~~((an Order to Prevent Construction))~~ notify the applicant of an intent to disapprove the application in accordance with Section 6.07(h). 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 by Article 7 of this Regulation provided that any such application shall be processed in accordance with the operating permit program procedures and deadlines.

(b) An Order of Approval may provide such conditions of operation as are reasonably necessary to assure compliance with all applicable emission standards.

(c) No Order of Approval shall be issued unless the Notice of Construction and Application for Approval demonstrates to the Board or Control Officer that:

(1) The operation of the source at the location proposed will not cause or contribute to a violation of an ambient air quality standard;

(2) The source will meet the requirements of all applicable emission standards;

(3) Best available control technology is employed for the installation of new sources and the modification of existing sources; and

(4) Reasonably available control technology is employed for the replacement of existing control equipment.

(d) No Order of Approval shall be issued for a new major source or major modification in a nonattainment area unless the Notice of Construction and Application for Approval also demonstrates to the Board or Control Officer that:

(1) For those air contaminants for which the area is designated nonattainment, lowest achievable emission rate is employed for each new source at a new major source, and each new or modified source involved in a major modification;

(2) All existing major sources owned or operated by the applicant in the state of Washington are in compliance with all applicable emission standards under the federal Clean Air Act or are on an approved compliance schedule;

(3) Offsets in the form of emission reduction credits (banked pursuant to Section 6.08 of this Regulation) in an amount greater than or equal to 1.10 times the proposed total allowable emissions from the new major source, or the increase from current actual emissions to the proposed total allowable emissions for a major modification, have been obtained from sources in the same nonattainment area and occur by the time the new major source or major modification begins operation; and

(4) The benefits of the proposed new major source or major modification significantly outweigh the environmental and social costs imposed as a result of its location, installation, or modification. (This demonstration, which shall include an analysis of alternative sites, sizes, production processes, and environmental control techniques, may be in the form of an environmental impact statement prepared under the State Environmental Policy Act or the National Environmental Policy Act.)

(e) No Order of Approval shall be issued for a new or modified source of toxic air contaminants, except for sources exempted by Section 2.01 of Regulation III, unless the Notice of Construction and Application for Approval demonstrates to the Board or Control Officer that:

(1) The toxic air contaminant emissions from the source will not result in the exceedance of any acceptable source impact level listed in Appendix A of Regulation III; or

(2) The emissions from the source will not cause air pollution. This demonstration shall be performed in accordance with Section 2.07 of Regulation III and requires approval from the Department of Ecology.

(f) No Order of Approval shall be issued for the construction or reconstruction of a major source of hazardous air pollutants, as defined in 40 CFR section 63.41, excluding sources listed below in Section 6.07(f) (1) and (2), unless the Notice of Construction and Application for Approval demonstrates to the Board or Control Officer that the maximum achievable control technology emission limitation for new sources is employed. Maximum achievable control technology shall be determined in accordance with principles in 40 CFR section 63.43(d).

(1) Major sources of hazardous air pollutants specifically regulated or exempted under a standard issued pursuant to sections 112(d), (h), or (j) of the federal Clean Air Act and incorporated in another subpart of 40 CFR Part 63; or

(2) Major sources listed in 40 CFR sections 63.40(c), (e), or (f).

~~((f))~~ (g) An Order of Approval shall expire unless the owner or operator has commenced construction of the source within 18 months of the date of its issuance or if construction is discontinued for a period of more than 18 months.

~~((g) An Order to Prevent Construction shall set forth the objections in detail with references to the provisions of this Regulation that would not be met. Such Order shall become final unless, no later than 15 days after the date the Order is served, the applicant petitions for a reconsideration of the Order, with reasons for the reconsideration. The Control~~

~~Officer shall consider the petition, and shall within 30 days give written Order of Approval or final disapproval of the Notice of Construction setting forth the reasons for disapproval.)~~

(h) An Intent to Disapprove an Application and any subsequent Order to Prevent Construction shall set forth the grounds on which the Intent to Disapprove or Order is based with references to the provisions of this Regulation that would not be met. A final Order to Prevent Construction shall be issued unless, no later than 60 days after the date the Intent to Disapprove is served, the applicant petitions for reconsideration of the Intent to Disapprove, setting forth the reasons for the reconsideration. The Control Officer shall consider the petition, and shall within 30 days of receipt of the petition, issue an Order of Approval or final Order to Prevent Construction, setting forth the reasons for disapproval.

WSR 99-04-108

PROPOSED RULES

HUMAN RIGHTS COMMISSION

[Filed February 3, 1999, 10:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-18-005.

Title of Rule: Chapter 162-16 WAC, Employment; chapter 162-22 WAC, Employment—Persons with disabilities; chapter 162-26 WAC, Public accommodations—Persons with disabilities; chapter 162-30 WAC, Sex discrimination; and chapter 162-38 WAC, Real estate transactions—Persons with disabilities.

Purpose: To adopt improvements to current Human Rights Commission rules under Executive Order 97-02 relating to clarity, effectiveness, consistency with statutory intent and case law, need, and fairness.

Statutory Authority for Adoption: RCW 49.60.120(3).

Statute Being Implemented: Chapter 49.60 RCW.

Summary: **Chapter 162-16 WAC, Employment:**

WAC 162-16-020 Bona fide occupational qualification defined, this proposal repeals the existing language and integrates it into new section WAC 162-16-240.

WAC 162-16-030 Advice of commission, this proposal repeals the existing language and integrates it into new section WAC 162-16-210.

WAC 162-16-040 Identification in use, this proposal repeals the existing language and integrates it into new section WAC 162-16-260.

WAC 162-16-050 Discrimination in employment because of arrests, 162-16-060 Discrimination in employment because of convictions, and 162-16-070 Applicability of WAC 162-16-050 and 162-16-060 to nonminorities, this proposal repeals the existing language in accordance with state case law (*Gugin v. Sonico*).

WAC 162-16-080 Purpose, this proposal repeals the existing language and integrates it into WAC 162-16-200 and 162-16-260.

WAC 162-16-090 Job titles, this proposal repeals the existing language and integrates it into WAC 162-16-260.

WAC 162-16-100 Discriminatory language, this proposal repeals the existing language and integrates it into WAC 162-16-260.

WAC 162-16-110 Employment agencies, this proposal repeals the existing language and integrates it into WAC 162-16-270.

WAC 162-16-120 Newspapers and advertising media, this proposal repeals the existing language and integrates it into WAC 162-16-280.

WAC 162-16-130 Bona fide occupational qualification, this proposal repeals the existing language and integrates it into WAC 162-16-240.

WAC 162-16-140 Affirmative action, this proposal repeals the existing language and integrates it into WAC 162-16-290.

WAC 162-16-150 Discrimination because of spouse, this proposal repeals the existing language, updates it in accordance with recent State Supreme Court case law (*Waggoner v. Ace Hardware*), and integrates it into WAC 162-16-250.

WAC 162-16-160 "Employer"—Jurisdictional count of number of persons employed, this proposal repeals the existing language, updates it in accordance with recent state case law (*Anaya v. Graham*), and integrates it into WAC 162-16-220.

WAC 162-16-170 Employee distinguished from independent contractor, this proposal repeals the existing language and integrates it into WAC 162-16-230.

WAC 162-16-200 General purpose and definitions, this new rule provides clear general guidance, integrates existing rules from WAC 162-16-160(3), advises persons to become familiar with federal antidiscrimination law, and provides a definition of "protected class" to reduce repetitive use of the more lengthy statutory list of protected classes.

WAC 162-16-210 Advice of the commission, this new rule updates existing rules from WAC 162-16-030 to reflect current agency practice regarding executive director's opinions.

WAC 162-16-220 Jurisdiction—Counting the number of persons employed, this new rule updates existing rules from WAC 162-16-160 to reflect current case law (*Anaya v. Graham*), reflect federal law and regulations regarding employees of temporary placement services, and improve clarity of language.

WAC 162-16-230 Jurisdiction—Independent contractors, this new rule updates existing rules in WAC 162-16-170 to provide clearer headings and improve readability.

WAC 162-16-240 Bona fide occupational qualification, this new rule combines existing provisions from WAC 162-16-020, 162-16-030, 162-16-040, and 162-16-130 into one section to reduce unnecessary text, update examples, and improve readability.

WAC 162-16-250 Discrimination because of marital status, this new rule updates existing rules from WAC 162-16-150 to reflect current case law (*Waggoner v. Ace Hardware*) and improve clarity of language.

WAC 162-16-260 Discriminatory language in advertising and recruiting, this new rule combines existing provisions from WAC 162-16-080, 162-16-090, and 162-16-100 into

one section to reduce unnecessary text, update examples, and improve readability.

WAC 162-16-270 Employment agencies, this new rule updates existing rules in WAC 162-16-110 to reduce unnecessary text, update provisions regarding affirmative action recruitment, and improve readability.

WAC 162-16-280 Newspapers and other advertising media, this new rule updates existing rules in WAC 162-16-120 to provide clearer sentence structure and improve readability.

WAC 162-16-290 Recruiting statements, this new rule updates existing rules in WAC 162-16-140 to reflect agency guidance on appropriate recruiting statements, reflect current law regarding affirmative action, and improve readability.

Chapter 162-22 WAC, Employment—Persons with disabilities:

WAC 162-22-010 Scope and intent of chapter, this amendment restates the rule's current language to improve readability.

WAC 162-22-020 Definitions, this proposal consolidates existing definitions from WAC 162-22-020 and 162-22-040 into one section to reduce unnecessary text, and adds a definition of "health care professional" that reflects federal law and regulations.

WAC 162-22-025 Unfair practice, this new section combines existing rules on unfair practices from WAC 162-22-050 and 162-22-080 to reduce unnecessary text and improve readability.

WAC 162-22-030 Affirmative action and reporting, this proposal repeals this section as unnecessary.

WAC 162-22-035 Preference for disabled is not an unfair practice, this new section restates existing rules from WAC 162-22-060 to reduce unnecessary text and simplify sentence structure.

WAC 162-22-040 General approach to enforcement, this proposal repeals this section as unnecessary in light of the consolidation of all chapter definitions in WAC 162-22-020.

WAC 162-22-045 Bona fide occupational qualification, this new section replaces current rules in WAC 162-22-070 by eliminating unnecessary repetition of definitions found in chapter 162-16 WAC. A reference to chapter 162-16 WAC is provided for guidance.

WAC 162-22-050 Unfair practice, this proposal repeals this section and integrates it into WAC 162-22-025.

WAC 162-22-060 Preference for disabled is not an unfair practice, this proposal repeals this section and integrates it into WAC 162-22-035.

WAC 162-22-065 Reasonable accommodation, this new section updates existing rules from WAC 162-22-080 and provides general guidance on reasonable accommodation, reflecting existing state and federal law and regulation.

WAC 162-22-070 Bona fide occupational qualification, this proposal repeals this section and integrates it into WAC 162-22-045.

WAC 162-22-075 Undue hardship exception, this new section restates existing rules from WAC 162-22-080(3) to improve sentence structure, clarity and readability.

WAC 162-22-080 Accommodation to employees with disabilities, this proposal repeals this section and integrates it into WAC 162-22-065 and 162-22-075.

WAC 162-22-090 Health care opinions, this amendment clarifies the expression of existing state and federal law and practice regarding the employer's right to seek a health care opinion regarding possible accommodations that would enable the proper performance of the job.

WAC 162-22-100 Dog guides and service animals, this amendment restates existing rules to clarify sentence structure and headings, strengthen examples, and improve readability.

Chapter 162-26 WAC:

WAC 162-26-010 Scope of chapter, this amendment deletes redundant references to statutory language and improves readability.

WAC 162-26-020 Purpose of chapter, this proposal repeals this section as unnecessary and redundant.

WAC 162-26-030 Related law, this proposal repeals this section as unnecessary in light of the consolidation of references to related law in WAC 162-26-120.

WAC 162-26-035 Concurrent remedy in court, this proposal repeals this section as unnecessary in light of the existing description of this process in chapter 162-08 WAC.

WAC 162-26-040 Definitions, this amendment deletes unnecessary repetition of statutory text and consolidates all existing definitions from the chapter into one section.

WAC 162-26-050 Who is protected, this amendment repeals subsection (1) as unnecessary and integrates subsections (2)-(4) into WAC 162-26-040 and subsection (5) into WAC 162-26-060.

WAC 162-26-060 General principles, this amendment reduces unnecessary repetition of statutory text, updates language to reflect current state and federal law and regulation regarding the reasonable accommodation process, and improves sentence structure and clarity.

WAC 162-26-070 General rules, this amendment reduces unnecessary or redundant language to improve clarity.

WAC 162-26-080 Reasonable accommodation, this amendment reflects the consolidation of definitions in WAC 162-26-040, and updates language to reflect the integration of the concept of arranged service within reasonable accommodation.

WAC 162-26-090 Arranged service, this proposal repeals this section as unnecessary.

WAC 162-26-100 Structural barriers to accessibility, this amendment reduces unnecessary repetition of statutory language to improve clarity.

WAC 162-26-110 Behavior causing risk, this amendment extracts provisions from existing rules related to behavior of trained dog guides or service animals that causes risk and restates them in WAC 162-26-135.

WAC 162-26-120 Failure to meet requirements of other law, this amendment clarifies the listing of related laws and better reflects agency practice regarding reference to standards established in related law for evidence of unfair practices under RCW 49.60.215.

WAC 162-26-135 Removal of a dog guide or service animal, this new section restates existing rules extracted from WAC 162-26-110 to clarify sentence structure and headings, strengthen examples, and improve readability.

WAC 162-26-140 Unfair to request or require waiver of rights, this amendment reorders existing sentences to better clarify intent and improve readability.

Chapter 162-30 WAC, Sex discrimination:

WAC 162-30-010 General purpose and scope, this amendment eliminates unnecessary statutory references and clarifies the general purpose of the chapter for readability.

WAC 162-30-020 Pregnancy, childbirth, and pregnancy related conditions, this amendment restructures the existing rule language to improve overall organization, reduce unnecessary text and improve readability, and adds definitions consistent with current state and federal law and practice.

Chapter 162-38 WAC, Real estate transactions—Disability discrimination:

WAC 162-38-040 Definitions, this amendment makes grammatical corrections to references to the statutory definitions of "dog guides" and "service animals."

WAC 162-38-100 Persons with dog guides or service animals, this amendment clarifies rules regarding permissible and impermissible deposits, consistent with federal law and interpretation. It is permissible to apply a standard cleaning or damage deposit equally to all tenants, including a person with a disability using a trained dog guide or service animal; but it is impermissible to charge an additional pet deposit to a person with a disability using a trained dog guide or service animal.

WAC 162-38-105 Removal of dog guides and service animals, this new section restates existing rules from WAC 162-38-130 to locate the text more logically next to related rules, clarify sentence structure and headings, strengthen examples, and improve readability.

WAC 162-38-110 Inquiries to disabled applicants, this amendment makes a grammatical correction and eliminates an unclear reference to the agency's preemployment inquiry rules (chapter 162-12 WAC).

WAC 162-38-130 Behavior causing risk, this proposal repeals this rule and restates it as WAC 162-38-105.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting: Martin D. Casey, Olympia, (360) 586-5765 and Heriberto Ruiz, Seattle, (206) 464-6505; Implementation and Enforcement: Susan J. Jordan, Olympia, (360) 753-2558.

Name of Proponent: Washington State Human Rights Commission, governmental.

Rule is necessary because of state court decision, [*Anaya v. Graham*, 89 Wn. App. 588; *Gugin v. Sonico, Inc.*, 68 Wn. App. 826, 846 P.2d 571; and *Waggoner v. Ace Hardware Corp.*, 134 Wn.2d 748.]

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

Proposal Changes the Following Existing Rules: See Summary above.

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

improve clarity and readability of current commission rules and do not impose any new or additional requirements on small business than already exists under current commission rules and the law against discrimination, chapter 49.60 RCW.

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

Hearing Location: On March 25, 1999, at 7:00 p.m. - 9:00 p.m., at the Lacey Community Center, 6729 Pacific Avenue S.E., Lacey, WA 98509; and on April 6, 1999, at 11:30 a.m. - 1:30 p.m., at the Melbourne Tower, 3rd Floor Conference Room, 1511 Third Avenue, Room 314, Seattle, WA 98101.

Assistance for Persons with Disabilities: Contact Tanya Calahan by March 15, 1999, TDD (360) 300-7525, or (360) 753-4876.

Submit Written Comments to: Martin D. Casey, P.O. Box 42490, Olympia, WA 98504-2490, fax (360) 586-2282, by April 15, 1999.

Date of Intended Adoption: June 25, 1999.

February 2, 1999

Susan J. Jordan

Executive Director

NEW SECTION

WAC 162-16-200 General purpose and definitions.

The law against discrimination protects persons from discrimination in employment (RCW 49.60.180, 48.60.190, and 49.60.200). Persons are also protected from discrimination as provided in RCW 49.60.172 (unfair practices with respect to HIV infection), RCW 49.60.174 (actual or perceived HIV infection), and RCW 49.60.210 (unfair to discriminate against person opposing unfair practice).

(1) The commission's first objective in writing the rules in this chapter and in making future decisions on questions not addressed in this chapter is to eliminate and prevent discrimination. This is the overall purpose of the law against discrimination.

(2) Other objectives in writing these rules are:

(a) To be consistent with interpretations of federal anti-discrimination law and the antidiscrimination laws of other states, where these are comparable to Washington law, and where the commission does not find that a different rule would better serve the state of Washington.

(b) To avoid the uncritical adoption of definitions from areas of law other than antidiscrimination law. It is appropriate to define employment differently in different areas of the law to carry out the separate purpose of each area of law.

(c) To give effect to the purposes of the exemption of employers of less than eight from public enforcement of the law against discrimination, as identified in RCW 49.60.040.

(d) The public and commission staff need standards that are certain and that are easy to understand and apply. Therefore we must sometimes simply draw a line, although reasonable persons could differ as to where the line should be drawn.

(3) The state law against discrimination covers employers with eight or more employees. Persons should also educate themselves on relevant local or federal antidiscrimination laws.

(4) Definition:

In this chapter, the following words are used in the meaning given, unless the context clearly indicates another meaning.

"Protected status" is short for the phrase, "age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person," and means the full phrase (see RCW 49.60.180).

NEW SECTION

WAC 162-16-210 Advice of commission. (1) When requested to do so, the commission's staff will advise persons on how to meet particular employment needs consistently with the law against discrimination.

(2) Persons may petition the commission for an executive director's opinion determining whether protected status would be a bona fide occupational qualification in particular circumstances, unless the commission or another public agency with comparable jurisdiction has directed or authorized the action. (Please see WAC 162-04-070 on executive director's opinions and WAC 162-16-240 on bona fide occupational qualification.)

NEW SECTION

WAC 162-16-220 Jurisdiction—Counting the number of persons employed. (1) **Purpose and scope.** RCW 49.60.040 defines "employer" for purposes of the law against discrimination in part as "any person. . . who employs eight or more persons." This section establishes standards for determining who is counted as employed when deciding whether a person is an employer. The standards in this section do not define who is entitled to the protection of the law against discrimination.

(2) **Time of calculation.** A person will be considered to have employed eight if the person either:

(a) Had an employment relationship with eight or more persons for any part of the day on which the unfair practice is alleged to have occurred, or did occur; or

(b) Had an employment relationship with an average of eight or more persons over a representative period of time including the time when the unfair practice is alleged to have occurred.

An employment relationship is most readily demonstrated by a person's appearance on the employer's payroll. The representative period of time for (b) of this subsection will ordinarily be the twenty weeks prior to and including the date on which the unfair practice is alleged to have occurred. However, where this period will not accurately reflect the overall employment level, as in a seasonal industry, we will use the month during which the unfair practice is alleged to have occurred plus the preceding eleven months.

(3) **Part-time employees.** A person working part time will be counted the same as a person working full-time. Persons subject to call to work (such as volunteer fire fighters) will be considered to be employed at all times when they are subject to call.

(4) **Area of calculation.** A person who employs eight or more persons is an "employer" for purposes of the law against discrimination even though less than eight of the employees are located in the state of Washington.

(5) **Multiple places of employment.** The count will include all persons employed by the same legal entity, whether or not the persons work in the same place of business or line of business.

(6) **Connected corporations.** Corporations and other artificial persons that are in common ownership or are in a parent-subsidiary relationship will be treated as separate employers unless the entities are managed in common in the area of employment policy and personnel management. In determining whether there is management in common we will consider whether the same individual or individuals do the managing, whether employees are transferred from one entity to another, whether hiring is done centrally for all corporations, and similar evidence of common or separate management.

(7) **Persons on layoff.** Persons on layoff will not be counted.

(8) **Persons on leave.** Persons on paid leave will be counted. Persons on unpaid leave will not be counted.

(9) **Employee or independent contractor.** Independent contractors will not be counted. In determining whether a person is employed or is an independent contractor for the jurisdictional count we will use the same standards that we use for the purpose of determining whether a person comes within the protection of the law against discrimination. These standards are set out in WAC 162-16-230.

(10) **Pay.** Anyone who is paid for work and who otherwise meets the standards in this section will be counted. This includes paid interns and work study program participants. Pay includes compensation for work by the hour, by commission, by piecework, or by any other measure. For the treatment of unpaid persons, see subsection (11) of this section.

(11) **Unpaid persons.** An unpaid person will be counted if he or she is generally treated in the manner that employers treat employees. That is, if management selects the person (particularly if selected in competition with other persons), assigns work hours, disciplines the unpaid person like an employee, or provides employment benefits such as industrial insurance, then the person will be counted as an employee. The typical volunteer fire fighter would be counted. A person who comes into the food bank when he or she pleases, is put to work if there is anything to do, who leaves when he or she pleases, who has no expectation of paid employment, and who receives no employment benefits, would not be counted.

(12) **Family members.** Because of the definition of "employee" in RCW 49.60.040, we will not count "any individual employed by his or her parents, spouse, or child." Other family members will be counted.

(13) **Domestic help.** Because of the definition of "employee" in RCW 49.60.040, we will not count a person in the domestic service of the employing person.

(14) **Directors.** Directors of corporations, and similar officers of other private or public artificial legal entities, will not be counted simply because they serve in that capacity.

(15) **Officers.** Officers of corporations, and officers of other private or public artificial legal entities, will be counted unless:

(a) They receive no pay from the corporation or other entity; and

(b) They do not participate in the management of the corporation or other entity beyond participation in formal meetings of the officers.

(16) **Partners.** Partners will not be counted as employed by the partnership or by each other.

(17) **Members of a professional service corporation.** All persons who render professional services for a professional service corporation will be counted as employees of the corporation.

(18) **Temporary employee placement services.** Persons placed with an on-site employer by a temporary employee placement service:

(a) Will be counted as employees of the temporary placement service; and

(b) Will also be counted as employees of the on-site employer if the on-site employer generally treated them in the manner that employers treat employees (please see the factors listed in WAC 162-16-230).

NEW SECTION

WAC 162-16-230 Jurisdiction—Independent contractors. (1) **Purpose of section.** RCW 49.60.180 defines unfair practices in employment. A person who works or seeks work as an independent contractor, rather than as an employee, is not entitled to the protection of RCW 49.60.180. This section outlines the standards that we will use to determine whether a person is an employee as distinguished from an independent contractor for the purpose of entitlement to the protection of RCW 49.60.180.

(2) **Rights of independent contractor.** While an independent contractor does not have the protection of RCW 49.60.180, the contractor is protected by RCW 49.60.030(1). The general civil right defined in RCW 49.60.030(1) is enforceable by private lawsuit in court under RCW 49.60.030(2) but not by actions of the Washington state human rights commission.

(3) **General approach.** We will consider all the relevant facts, particularly those bearing on the following factors. No one factor is determinative, but the most important is the extent to which the purchaser of work controls the manner and means of performance of the work.

(a) **Control of work.** An employment relationship probably exists where the purchaser of work has the right to control and direct the work of the worker, not only as to the result to be achieved, but also as to the details by which the result is achieved.

(b) **Tools and place of work.** Does the purchaser of the work or the worker furnish the equipment used and the place of work? Generally, the purchaser of work furnishes tools and equipment for employees while independent contractors furnish their own. Some employees furnish some of their own tools, however.

(c) **Skill level involved.** The skill required in the particular occupation. Skilled workers are typically less closely

supervised than unskilled workers, but they are employees if indicia of employment other than close supervision are present.

(d) **Type of work involved.** The kind of occupation, with reference to whether the work usually is done under the direction of a supervisor or is done by a specialist without supervision. Some persons, such as lawyers or doctors, may be employees even though they are not closely supervised. The test for such specialists is not whether the lawyer or doctor is closely supervised, but whether he or she is treated the way that employed lawyers or doctors are commonly treated. Lawyers and doctors are typically independent contractors, however, with respect to their clients or patients.

(e) **Duration of work.** The length of time during which the person has worked or the length of time that the job will last. Independent contractors typically are hired for a job of relatively short duration, but there are instances of independent contracts for an indefinite period - for example, contracts for janitorial service.

(f) **Method of payment.** The method of payment, whether by time or by the job. Independent contractors are usually paid by the job but are sometimes paid by time. Employees are usually paid by time but are sometimes paid by the job.

(g) **Ending the work relationship.** Whether the work relationship is terminable by one party or both parties, with or without notice and explanation. An employee is usually free to quit and is usually subject to discharge or layoff without breach of the employment contract. An independent contractor usually has more fixed obligations.

(h) **Leave.** Whether annual leave is afforded. Leave with pay is almost exclusively accorded to employees.

(i) **Integration of the work in the purchaser's operations.** Whether the work is an integral part of the business of the purchaser of it. Usually, employees rather than independent contractors do the regular work of a business.

(j) **Accrual of benefits.** Whether the worker accumulates retirement benefits. Retirement benefits are almost exclusively accorded to employees.

(k) **Taxation.** Whether with respect to the worker the purchaser of work pays taxes levied on employers, such as the social security tax, unemployment compensation tax, and worker's compensation tax, or withholds federal income tax. The tax laws do not have the same purposes as the law against discrimination, so employee status for tax purposes is helpful but not controlling.

(l) **Salary or income.** Whether the worker treats income from the work as salary or as business income. See subsection (3)(k) of this section.

(m) **Employer records.** Whether with respect to the worker the purchaser of work keeps and transmits records and reports required of employers, such as those required under the worker's compensation act. Worker's compensation coverage, like tax coverage, is helpful but not conclusive.

(n) **The intention of the parties.** The fact that a contract says that the worker is an independent contractor will be considered in this respect, but it is not conclusive for the purpose of coverage of RCW 49.60.180.

(4) **Burden of persuasion.** The party asserting that the complainant is an independent contractor has the burden of proving that status.

NEW SECTION

WAC 162-16-240 Bona fide occupational qualification. Under the law against discrimination, there is one exception to the rule that an employer, employment agency, labor union, or other person may not discriminate on the basis of protected status; that is if a bona fide occupational qualification (BFOQ) applies. The commission believes that the BFOQ exception should be applied narrowly to jobs for which a particular quality of protected status will be essential to the accomplishment of the purposes of the job. The following examples illustrate how the commission applies BFOQs:

- (1) Where it is necessary for the purpose of authenticity or genuineness (e.g., model, actor, actress) or maintaining conventional standards of sexual privacy (e.g., locker room attendant, intimate apparel fitter) the commission will consider protected status to be a BFOQ.
- (2) A 911 emergency response service needs operators who are bilingual in English and Spanish. The job qualification should be spoken language competency, not national origin.
- (3) An employer refuses to consider a person with a disability for a receptionist position on the basis that the person's disability "would make customers and other coworkers uncomfortable." This is **not** a valid BFOQ.
- (4) A person with a disability applies for promotion to a position at a different site within the firm. The firm does not promote the person because doing so would compel the firm to install an assistive device on equipment at that site to enable the person to properly perform the job. This is **not** a valid BFOQ.

NEW SECTION

WAC 162-16-250 Discrimination because of marital status. (1) **General rule.** It is an unfair practice to discriminate against an employee or job applicant because of marital status. Examples of unfair practices include, but are not limited to:

- (a) Refusing to hire a single or divorced applicant because of a presumption that "married persons are more stable."
- (b) Refusing to promote a married employee because of a presumption that he or she "will be less willing to work late and travel."

(2) **Exceptions to the rule.** There are two narrow exceptions to the rule that an employer, employment agency, labor union, or other person may not discriminate on the basis of marital status:

- (a) If a bona fide occupational qualification applies (please see WAC 162-16-240).
- (b) If an employer is enforcing a documented conflict of interest policy limiting employment opportunities on the basis of marital status:

(i) Where one spouse would have the authority or practical power to supervise, appoint, remove, or discipline the other;

(ii) Where one spouse would be responsible for auditing the work of the other;

(iii) Where other circumstances exist which would place the spouses in a situation of actual or reasonably foreseeable conflict between the employer's interest and their own; or

(iv) Where, in order to avoid the reality or appearance of improper influence or favor, or to protect its confidentiality, the employer must limit the employment of close relatives of policy level officers of customers, competitors, regulatory agencies, or others with whom the employer deals.

NEW SECTION

WAC 162-16-260 Discriminatory language in advertising and recruiting. (1) **Unfair practice.** The law against discrimination (RCW 49.60.180, 49.60.190 and 49.60.200) makes it an unfair practice for employers, labor unions, employment agencies, or other persons to discriminate on the basis of protected status. The sole exception is if a bona fide occupational qualification applies (please see WAC 162-16-240). The law against discrimination (RCW 49.60.220) also makes it an unfair practice for any person to aid, abet, encourage, or incite the commission of any unfair practice.

The commission provides the following charts as guidance in avoiding discriminatory language in advertising and recruiting. These are suggested terms only. The commission invites persons who want further assistance to contact commission staff.

(2) **Discriminatory language.** It is an unfair practice to use any word, term, phrase, or expression that tends to influence, persuade or dissuade, encourage or discourage, attract or repel, any person or persons because of protected status. The sole exception is if a bona fide occupational qualification applies (please see WAC 162-16-240).

DISCRIMINATORY TERMS IN ADVERTISEMENTS:	SUGGESTED SUBSTITUTES:
Man, woman, girl, boy, lady, etc.	Person, applicant, hiree, one, trainee, or a sex-neutral job title
Cute, handsome, pretty, clean-cut, attractive	Neat, well-groomed, personable, professional appearance
Married, single	No substitutes
Recent graduate, college student (implies preference for youth)	Degree required, Internship
Mother, housewife	Part-time, short hours
Young	Entry level, beginner, trainee
Christian, Jewish, etc.	No substitutes

PROPOSED

PROPOSED

**DISCRIMINATORY TERMS
IN ADVERTISEMENTS:**

Interracial, segregated,
Black, White, colored, Ori-
ental, Asian, Mexican,
minority.

SUGGESTED SUBSTITUTES:

Person, applicant, etc.

Other nondiscriminatory
terms: Reliable, responsi-
ble, efficient, minimum
wages, long hours, overtime,
able to travel, willing to
relocate.

(3) **Job titles.** It is an unfair practice to use a discrimina-
tory job title in any help wanted advertisement, job descrip-
tion, job announcement, or any other notice, statement, or
publication, unless the employer has shown that a bona fide
occupational qualification applies (please see WAC 162-16-
240).

The term "discriminatory job title" includes but is not
limited to any job title that contains a gender noun or suffix,
such as waitress, foreman, salesman, maid, or counter girl. If
the use of a gender neutral job title is not practicable, two
alternatives are permissible:

(a) The sex specific job title may be used with its coun-
terpart title (e.g., waiter/waitress);

(b) The sex specific title may be used if accompanied by
the designation "man or woman," "male or female," or "M-F"
(e.g., foreman, man or woman; tailor, male or female; line-
man, M-F).

**DISCRIMINATORY JOB
TITLES:**

Barmaid
Busboy, tray girl
Cleaning woman, cleaning
lady
Draftsman
Fireman
Fisherman
Foreman
Handyman
Journeyman
Leadman
Longshoreman
Maid
Maintenance man
Policeman
Repairman
Salesman, saleslady, sales-
girl

SUGGESTED SUBSTITUTES:

Server, Cocktail Server
Busser, Cafeteria Worker
Cleaning Assistant
Drafter, AutoCAD
Specialist
Fire Fighter
Fisher
Supervisor
Miscellaneous Repairer
Journey Level
Crew, Shift, or Team Leader
Longshore Worker
Domestic Helper, House-
keeper
Maintenance Worker
Police Officer
Repairer, Technician
Salesperson, Sales Clerk,
Sales Representative

**DISCRIMINATORY JOB
TITLES:**

Stewardess, Steward

SUGGESTED SUBSTITUTES:

Flight Attendant, Cabin
Attendant

NEW SECTION

WAC 162-16-270 Employment agencies. (1) It is an
unfair practice for any employment agency to:

(a) Handwrite, print, or circulate any interoffice or inter-
agency communication, job order, advertisement, brochure,
or notice which expresses overtly or subtly, directly or indi-
rectly a preference, specification or limitation on the basis of
protected status. The sole exception is if a bona fide occupa-
tional qualification applies (please see WAC 162-16-240).

(b) Maintain, formally or informally, agency division
titles that are not clearly neutral in terms of sex.

(2) It is not an unfair practice for an employment agency
to assist an employer in recruiting applicants based on pro-
tected status when:

(a) The employer has a documented affirmative action
plan; and

(b) The employer's affirmative action plan is authorized
or required by a governmental agency or court of competent
authority and jurisdiction.

NEW SECTION

**WAC 162-16-280 Newspapers and other advertising
media.** (1) It is an unfair practice for a newspaper or other
advertising medium to publish or circulate within the state an
employment advertisement under a column heading or design-
ation which segregates or expresses a preference on the
basis of protected status. The sole exception is if a bona fide
occupational qualification applies (please see WAC 162-16-
240).

(2) It is not an unfair practice for any newspaper or other
advertising medium to print, publish, or circulate employ-
ment advertisements expressing the wording of the advertise-
ment, or subtly, directly or indirectly a preference, specifica-
tion or limitation on the basis of protected status, provided
the newspaper or other advertising medium furnishes, on
request of a duly authorized representative of the commis-
sion, the name and address of the person who submitted the
advertisement for publication.

(3) The commission encourages advertising media that
circulate employment advertisements to:

(a) Maintain lists of discriminatory job titles and terms
and suggested substitutes, as compiled by the commission;

(b) Instruct their ad-takers to advise employers and
employment agencies of these terms; and

(c) Have copies of this regulation available for distribu-
tion to advertisers on request.

NEW SECTION

WAC 162-16-290 Recruiting statements. (1) Employ-
ers are encouraged to seek a broad pool of applicants through

recruitment efforts. It is permissible to use advertisements that contain nonexclusionary recruitment phrases, such as:

- (a) "Equal opportunity employer."
- (b) "We encourage workforce diversity."

(2) IT IS NOT PERMISSIBLE, however, to express or exercise a hiring preference based on protected status, UNLESS:

- (a) The employer has a court order to do so or an authorization from this commission or another governmental agency of competent authority and jurisdiction; or
- (b) The employer can prove that the expression is justified by a bona fide occupational qualification (please see WAC 162-16-240). In the absence of proof, the advertisement will be considered evidence of an unfair practice under the law.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 162-16-020	Bona fide occupational qualification defined.
WAC 162-16-030	Advice of commission.
WAC 162-16-040	Identification in use.
WAC 162-16-050	Discrimination in employment because of arrests.
WAC 162-16-060	Discrimination in employment because of convictions.
WAC 162-16-070	Applicability of WAC 162-16-050 and 162-16-060 to nonminorities.
WAC 162-16-080	Purpose.
WAC 162-16-090	Job titles.
WAC 162-16-100	Discriminatory language.
WAC 162-16-110	Employment agencies.
WAC 162-16-120	Newspapers and other advertising media.
WAC 162-16-130	Bona fide occupational qualification.
WAC 162-16-140	Affirmative action.
WAC 162-16-150	Discrimination because of spouse.
WAC 162-16-160	"Employer"—Jurisdictional count of number of persons employed.
WAC 162-16-170	Employee distinguished from independent contractor.

AMENDATORY SECTION (Amending WSR 98-08-035, filed 3/23/98, effective 4/23/98)

WAC 162-22-010 Scope of chapter. This chapter interprets and implements the disability discrimination coverage of:

- (1) RCW 48.60.174 (unfair practices based on actual or perceived HIV infection);
- (2) RCW 49.60.180 (unfair practices of employers)((:);
- (3) RCW 49.60.190 (unfair practices of labor unions)((: and));
- (4) RCW 49.60.200 (unfair practices of employment agencies);
- (5) RCW 49.60.210 (unfair to discriminate against persons opposing unfair practices); and
- (6) RCW 49.60.220 (unfair to aid violation).

AMENDATORY SECTION (Amending WSR 98-08-035, filed 3/23/98, effective 4/23/98)

WAC 162-22-020 Definitions. In this chapter the following words are used in the meaning given, unless the context clearly indicates another meaning:

(1) "Disability" is short for the statutory term "the presence of any sensory, mental, or physical disability," ((see ~~WAC 162-04-010;~~)) except when it appears as part of the full term.

(2) "The presence of a sensory, mental, or physical disability" includes, but is not limited to, circumstances where a sensory, mental, or physical condition:

- (a) Is medically cognizable or diagnosable;
- (b) Exists as a record or history;
- (c) Is perceived to exist whether or not it exists in fact.

A condition is a "sensory, mental, or physical disability" if it is an abnormality and is a reason why the person having the condition did not get or keep the job in question, or was denied equal pay for equal work, or was discriminated against in other terms and conditions of employment, or was denied equal treatment in other areas covered by the statutes. In other words, for enforcement purposes a person will be considered to be disabled by a sensory, mental, or physical condition if he or she is discriminated against because of the condition and the condition is abnormal.

(3) An "able worker with a disability" is a person whose disability does not prevent the proper performance, with or without reasonable accommodation, of the particular job in question.

(4) "'Dog guide' means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons."

(5) "'Service animal' means an animal that is trained for the purpose of assisting or accommodating a disabled person's sensory, mental, or physical disability."

(6) "Health care professional" means a person whose license to practice includes diagnosis and assessment of the particular disability for which she or he issues a health care opinion.

PROPOSED

NEW SECTION

WAC 162-22-025 Unfair practice. It is an unfair practice for any employer, employment agency, labor union, or other person to:

(1) Refuse to hire, discharge, bar from employment, or otherwise discriminate against an able worker with a disability or because of the use of a trained dog guide or service animal by an able worker with a disability; or

(2) Fail or refuse to make reasonable accommodation for an able worker with a disability or the use of a trained dog guide or service animal by an able worker with a disability, unless to do so would impose an undue hardship (please see WAC 162-22-065 and 162-22-075); or

(3) Refuse to hire or otherwise discriminate against an able worker with a disability because the employer would be subject to the requirements of this chapter if the person were hired, promoted, etc.

NEW SECTION

WAC 162-22-035 Preference for disabled is not an unfair practice. The law protects against discrimination because of the presence of any disability or the use of a trained dog guide or service animal by a person with a disability. Discrimination in favor of a person because of the person's disability is not an unfair practice. This is different from the operation of the statutes in all other areas, except for age discrimination. For example, it is an unfair practice for an employer to discriminate either for or against persons of any race or either sex.

NEW SECTION

WAC 162-22-045 Bona fide occupational qualifications. Under the law against discrimination, there is one exception to the rule that an employer, employment agency, labor union, or other person may not discriminate on the basis of protected status; that is if a bona fide occupational qualification (BFOQ) applies. For a complete discussion of BFOQs, please read WAC 162-16-240.

NEW SECTION

WAC 162-22-065 Reasonable accommodation. (1) Reasonable accommodation means measures that:

(a) Enable equal opportunity in the application process;

(b) Enable the proper performance of the particular job held or desired;

(c) Enable the enjoyment of equal benefits, privileges, or terms and conditions of employment.

(2) Possible examples of reasonable accommodation may include, but are not limited to:

(a) Adjustments in job duties, work schedules, or scope of work;

(b) Changes in the job setting or conditions of work;

(c) Informing the employee of vacant positions and considering the employee for those positions for which the employee is qualified.

NEW SECTION

WAC 162-22-075 Undue hardship exception. An employer, employment agency, labor union, or other person must provide reasonable accommodation unless it can prove that the accommodation would impose an undue hardship. An accommodation will be considered an undue hardship if the cost or difficulty is unreasonable in view of:

(1) The size of and the resources available to the employer;

(2) Whether the cost can be included in planned remodeling or maintenance; and

(3) The requirements of other laws and contracts, and other appropriate considerations.

AMENDATORY SECTION (Amending WSR 98-08-035, filed 3/23/98, effective 4/23/98)

WAC 162-22-090 ((Physician's)) Health care opinions. (1) ((A physician's)) Employers may seek a health care professional's opinion on whether a person's disability ((prevents a person from properly performing)) affects the proper performance of a particular job. The employer may also seek a health care professional's opinion on possible effective accommodations that would enable the person with a disability to properly perform the job. The health care professional's opinion will be given due weight in view of all the circumstances, including the extent of the ((physician's)) health care professional's knowledge of the particular person and job, and the ((physician's)) health care professional's relationship to the parties.

(2) A ((physician's)) health care professional's conclusion will not be considered to be an opinion on whether the person can properly perform the particular job unless it:

(a) Is based on the individual capabilities of the particular person, and not on generalizations as to the capabilities of all persons with the same disability((, unless the disability is invariable in its disabling effect)); and

(b) Is based on knowledge of the actual sensory, mental, and physical qualifications needed for proper performance of the particular job.

(3) Employers ((who choose to rely on a physician's opinion in determining that a person cannot properly perform the particular job)) are advised to provide the ((physician)) health care professional with the necessary information about the particular job and to inform the ((physician)) health care professional of the need for an individualized opinion.

(4) Employee health care information shall be kept in a confidential manner, separate from the employee's regular personnel files. The employer may share health care information only on a need to know basis. Supervisors and/or safety personnel may be informed of employee needs only if necessary to make appropriate work assignments or develop appropriate emergency response plans.

AMENDATORY SECTION (Amending WSR 98-08-035, filed 3/23/98, effective 4/23/98)

WAC 162-22-100 ((Behavior causing risk-)) Dog guides and service animals. ((Behavior or actions of a dog

guide or service animal that constitutes an unreasonable risk to property or other persons can be grounds to request that a dog guide or service animal be removed, and shall not constitute an unfair practice.))

(1) **General rule.** It is ~~((not))~~ an unfair practice ~~((under RCW 49.60.180))~~ for an employer, employment agency, labor union, or other person to request that a trained dog guide or service animal be removed from the workplace ~~((because the)), UNLESS that employer, employment agency, labor union, or other person can show that the presence, behavior or actions of that dog guide or service animal constitutes an unreasonable risk to property or other persons.~~

It is an unfair practice to remove a trained dog guide or service animal from the entire workplace because the animal presents a risk of injury or harm when in part of the workplace.

~~(2) **Individual judgment required.** To come within this exception, the removal of a dog guide or service animal must be based on knowledge of the present behavior or actions of the dog guide or service animal. It is an unfair practice to exclude all of the particular dog guides or service animals unless the employer can show that all of the particular dog guides or service animals will present an unreasonable risk to persons or property.~~

~~(3) **Likelihood of injury.**) Assessing risk of injury or harm.~~

~~(a) Risk to property or other persons must be immediate ((and likely)) or reasonably foreseeable under the circumstances, not remote or speculative. ((4) **Degree of risk.**) Risk ((of injury)) to persons may be given more weight than risk ((of injury)) to property. Risk of severe injury or harm may be given more weight than risk of slight injury or harm. For example, a principal excludes a teacher's dog guide because: "A neighborhood dog bit one of our kids last year, so I don't allow any dogs at school." This is **not** "reasonably foreseeable risk" justifying removal of the dog guide.~~

~~((5) **Annoyance to staff or other customers.**) (b) Annoyance on the part of staff or other customers of the workplace at the presence of the dog guide or service animal is not an unreasonable "risk to property or other persons" justifying the removal of the dog guide or service animal.~~

~~((6) **Least discriminatory solution required.** It is an unfair practice to remove a dog guide or service animal from the entire workplace because the dog guide or service animal presents a risk of injury when in part of the workplace.)) (c) Risk of injury or harm to the dog guide or service animal is not a reason for an employer to remove or exclude the animal. The decision whether to bring the animal to the worksite under such conditions most properly rests with the person with a disability using the dog guide or service animal.~~

~~(3) **Reasonable accommodation.** When risk justifies the removal of a dog guide or service animal from the workplace, efforts must be made to reasonably accommodate the person with the disability.~~

~~(4) **Liability.** Law other than the law against discrimination governs liability for injury or harm. Generally, a person with a disability using a dog guide or service animal is responsible for the animal and may be held liable for the behavior and actions of the animal.~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 162-22-030	Affirmative action and reporting.
WAC 162-22-040	General approach to enforcement.
WAC 162-22-050	Unfair practice.
WAC 162-22-060	Preference for disabled is not an unfair practice.
WAC 162-22-070	Bona fide occupational qualification.
WAC 162-22-080	Accommodation to employees with disabilities.

AMENDATORY SECTION (Amending WSR 98-08-035, filed 3/23/98, effective 4/23/98)

WAC 162-26-010 Scope of chapter. ~~((1) **Confined to unfair practice.**)~~ This chapter interprets and implements the disability discrimination coverage of RCW 49.60.215, unfair practices of places of public resort, accommodation, assemblage, and amusement. This chapter does not define the scope of the civil right to be free from discrimination because of disability declared in RCW 49.60.030 or interpret other statutes. ~~((This chapter applies to the unfair practices which the commission is empowered by RCW 49.60.120 to eliminate and prevent through the administrative process provided in RCW 49.60.230 through 49.60.270.~~

~~(2) **Language interpreted.** This chapter interprets and implements RCW 49.60.215, Unfair practices of places of public resort, accommodation, assemblage, and amusement, as amended by chapter 271, Laws of 1997.~~

~~(3) **Related regulations.** Regulations of the commission on disability discrimination in real estate transactions are in chapter 162-38 WAC. Commission regulations governing disability discrimination in employment are in chapter 162-22 WAC and in other regulations governing employment. General regulations of the commission governing schools are in chapter 162-28 WAC.))~~

AMENDATORY SECTION (Amending WSR 98-08-035, filed 3/23/98, effective 4/23/98)

WAC 162-26-040 Definitions. (1) **Place of public accommodation.** RCW 49.60.040 ~~((gives the following definition:~~

~~"Any place of public resort, accommodation, assemblage, or amusement' includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, ser-~~

PROPOSED

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ices, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day-care centers or children's camps: Provided, That nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution;") defines and lists examples of a place of public accommodation.

(2) General definitions (~~General definitions applicable throughout the commission's regulations are set out in WAC 162-04-010. These include the following:~~

"Disability" is short for the term "the presence of any sensory, mental, or physical disability" used in the law against discrimination, and means the full term."

(3) Definitions) special to this chapter. The following words or phrases are used in this chapter in the meaning given, unless the context clearly indicates another meaning.

"Accessible" means usable or understandable by a person with a disability, with reasonable effort and in reasonable safety.

("Arranged service" means making the services or goods of a place of public accommodation available to a person with a disability at a place or in a way that is different from the place or way that the service is offered to the public in general in order to serve the person. See WAC 162-26-090.) "Disability" is short for the term "the presence of any sensory, mental, or physical disability" used in the law against discrimination, and means the full term.

"Dog guide" means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons.

("Fair service" means the service required by RCW 49.60.215 for disabled persons in places of public accommodation. Depending on the circumstances, fair service may be in the form of (a) same service, (b) reasonable accommodation, or (c) arranged service. These terms are defined in this chapter. See also "service" and "fairly serve."

"Fairly serve" means to provide fair service.)

"Place of public accommodation" is short for "place of public resort, accommodation, assemblage, or amusement" and means the full term.

"Reasonable accommodation" means action, reasonably possible in the circumstances, to make the regular services of

a place of public accommodation accessible to persons who otherwise could not use or fully enjoy the services because of the person's sensory, mental, or physical ((limitations)) disability. See WAC 162-26-080.

"Same service" means service without regard to the existence of a disability. See WAC 162-26-060.

"Service" means everything available to persons from a place of public accommodation.

"Service animal" means an animal that is trained for the purpose of assisting or accommodating a ((disabled)) person's sensory, mental, or physical disability.

"Structural" ((is defined in WAC 162-26-100(5)).

"Unfair service" means service not in compliance with RCW 49.60.215. See "fair service.") means the load-bearing members and essential structure or composition of a place, as distinguished from its finish, decorations, or fittings. Examples of structural components are floors, walls, stairs, door openings, sidewalks, elevators, and escalators. Examples of things that are not structural are moveable walls, bathroom fixtures and partitions, fixtures such as water fountains (whether or not attached to a wall), doors and door hardware, cabinets, counters, handrails, signs (attached or painted), elevator controls, alarm systems, and carpeting or other floor covers.

AMENDATORY SECTION (Amending WSR 98-08-035, filed 3/23/98, effective 4/23/98)

WAC 162-26-060 General principles. (1) **Same service preferred.** The purposes of the law against discrimination are best achieved when disabled persons are treated the same as if they were not disabled. The legislature expresses this policy in RCW 49.60.215 with the words "regardless of." Persons should, if possible, be treated without regard to their disability or use of a dog guide or service animal. This is called "same service" in this chapter.

(2) **Reasonable accommodation.** ((In some circumstances, however, treating disabled persons the same as non-disabled persons (c)) The law protects against discrimination because of the "presence" of a disability. It does not prohibit treating disabled persons more favorably than nondisabled persons in circumstances where same service((b)) will defeat the purposes of the law against discrimination.

For example, this would be true if persons in wheelchairs and nondisabled persons are equally entitled to use the stairway to reach the second floor of a store. In such circumstances, the operator of the place of public accommodation should ((if possible)) use the next best solution: Reasonable accommodation.

A reasonable accommodation would be to permit the shopper in the wheelchair to use an elevator to reach the second floor, even though the public in general is not permitted to use the elevator. ((Reasonable accommodation is explained in WAC 162-26-080.

(3) ~~Arranged service.~~ Where same service will not carry out the purposes of the law and where no accommodation is reasonable, the operator of a place of public accommodation should use the third best solution: Arranged service. In the example used in this section, arranged service would be having a store employee bring merchandise of the size and

description requested by the wheelchair shopper from the second floor for examination by the customer on the first floor. This would be appropriate if there were no elevator and no other safe and dignified way to transport the customer to the second floor. Arranged service is explained in WAC 162-26-090.

(4)) If there is no elevator and no other safe and dignified way for the customer to reach the second floor, another reasonable accommodation would be to bring merchandise requested by the customer to the first floor. Reasonable accommodations may also include, but are not limited to, providing sign language interpreters and making printed materials available in alternate formats.

(3) **Overall objective.** ~~(In applying RCW 49.60.215, the commission seeks to assure that disabled persons will have the enjoyment of places of public accommodation to the greatest extent practical. The legislature in RCW 49.60.040 has defined "full enjoyment of" with respect to the civil right set out in places of public accommodation in RCW 49.60.030 as follows:~~

~~"Full enjoyment of includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons . . . with any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a disabled person, to be treated as not welcome, accepted, desired, or solicited."~~) People with disabilities must be afforded the full enjoyment of places of public accommodation to the greatest extent practical.

AMENDATORY SECTION (Amending WSR 98-08-035, filed 3/23/98, effective 4/23/98)

WAC 162-26-070 General rules. ~~((1) Rules.)~~ These rules apply except where exempted by RCW 49.60.215 for structural changes or behavior causing risk, or exempted by ruling of the commissioners under WAC 162-06-030((g)). It is an unfair practice under RCW 49.60.215 for any person in the operation of a place of public accommodation, because of disability or use of a trained dog guide or service animal:

~~((a))~~ (1) To refuse to serve a person;

~~((b))~~ (2) To charge for reasonably accommodating the special needs of a disabled person ~~((; or for arranged service as defined in this chapter));~~

~~((c))~~ (3) To require a disabled person accompanied by a trained dog guide or service animal in any of the places listed in RCW 70.84.010(3) to pay an extra charge for the trained dog guide or service animal;

~~((d))~~ (4) To treat a disabled person as not welcome, accepted, desired, or solicited the same as a nondisabled person;

~~((e))~~ (5) To segregate or restrict a person or deny a person the use of facilities or services in connection with the place of public accommodation where same service is possible without regard to the disability; or

~~((f))~~ (6) To fail to reasonably accommodate the known physical, sensory, or mental limitations of a disabled person,

when same service would prevent the person from fully enjoying the place of public accommodation, as provided in WAC 162-26-080 ~~((; or~~

~~((g))~~ To fail to arrange service under the rules in WAC 162-26-090 when reasonable accommodation is not possible and same service treatment would prevent the disabled person from fully enjoying the place of public accommodation.

(2) **Exceptions may be granted.** The commission will grant exceptions to the rules of this chapter under the standards set out in WAC 162-06-030).

AMENDATORY SECTION (Amending WSR 98-08-035, filed 3/23/98, effective 4/23/98)

WAC 162-26-080 Reasonable accommodation. (1) **Unfair practice to not accommodate.** It is an unfair practice for a person in the operation of a place of public accommodation to fail or refuse to make reasonable accommodation to the known physical, sensory, or mental limitations of a person with a disability or to the use of a trained dog guide or service animal by a disabled person, when same service would prevent the person from fully enjoying the place of public accommodation.

(2) ~~((Defined. "Reasonable accommodation" is action, reasonably possible in the circumstances, to make the regular services of a place of public accommodation accessible to persons who otherwise could not use or fully enjoy the services because of the person's sensory, mental, or physical limitations.~~

(3)) **Determining reasonableness.** Whether a possible accommodation is reasonable or not depends on the cost of making the accommodation, the size of the place of public accommodation, the availability of staff to make the accommodation, the importance of the service to the person with a disability, and other factors bearing on reasonableness in the particular situation.

~~((4))~~ (3) **Carrying not favored.** Carrying a mobility-impaired person is not required by law and is not an acceptable accommodation, except in rare circumstances. Carrying should be done only when there is no other way for the mobility-impaired person to use the facility and when it is agreeable to the person with a disability.

~~((5) Reference to employment standard. The concept of reasonable accommodation is also used in the employment context. The commission will rely on its interpretations of WAC 162-22-080 and on *Holland v. Boeing Co.*, 90 Wn.2d 384, 583 P.2d 621 (1978) for guidance in applying this section.)~~ (4) **"Arranged service."** The concept of "arranged service," as formerly defined in commission rules, is incorporated fully within the scope of reasonable accommodation.

AMENDATORY SECTION (Amending WSR 98-08-035, filed 3/23/98, effective 4/23/98)

WAC 162-26-100 Structural barriers to accessibility. (1) ~~((Statute. RCW 49.60.215 says that it "shall not be construed to require structural changes, modifications, or additions to make any place accessible to a disabled person except as otherwise required by law. . . ."~~

(2)) **Laws requiring accessibility.** The commission enforces the law against discrimination, chapter 49.60 RCW, not other state or federal laws. The commission provides the following references as guidance to places of public accommodation. The principal laws requiring that places of public accommodation be made accessible ~~((are))~~ include, but are not limited to:

(a) The Washington state building code~~((, chapter 19.27 RCW, which includes the barrier free design standards adopted in chapter 51-10 WAC under authority of chapter 70.92 RCW. The barrier free design standards apply with some exceptions to "buildings, structures, or portions thereof, ... which are constructed, substantially remodeled, or substantially rehabilitated after October 1, 1976." WAC 51-10-003)).~~

(b) Chapter 219, Laws of 1971 ex. sess.~~((, in effect from August 9, 1971, through June 30, 1976. This statute required that plans and specifications for the erection or remodeling of any public accommodation must provide for access by persons with physical disabilities, for toilet facilities designed for use by the persons with physical disabilities, and for additional facilities specified in a national standard.))~~

(c) Chapter 35, Laws of 1967~~((, in effect from June 8, 1967, through June 30, 1976. This statute was substantially the same as the 1971 statute described in paragraph (b) of this subsection, but was limited in its coverage to public buildings)).~~

(d) RCW 35.68.075~~((, requiring curb ramps in sidewalks constructed or replaced after June 7, 1973)).~~

(e) United States law; ~~((particularly 45 CFR § 84.23 implementing section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), which requires that facilities constructed after April 28, 1977 with federal assistance be readily accessible to and usable by disabled persons.~~

~~((f))~~ including The Americans with Disabilities Act of 1990, codified at 42 U.S.C. 12101 et seq., the Rehabilitation Act of 1973, and the Federal Fair Housing Act.

~~((3))~~ **(2) Practices that are not unfair.** It is not an unfair practice under RCW 49.60.215 to operate a place of public accommodation with structural barriers to accessibility of the person with a disability when the structural barriers:

(a) Were lawful when constructed; and

(b) Are presently lawful under the state building code and other law outside of the law against discrimination.

This exemption does not relieve the operator of a place of public accommodation of the duty to make reasonable accommodation to the needs of disabled persons as described in WAC 162-26-080~~((, or to provide arranged service as described in WAC 162-26-090)).~~

~~((4))~~ **(3) When required by law.** It is an unfair practice under RCW 49.60.215:

(a) To deny service to any person because of a barrier to accessibility when accessibility is required by law;

(b) To build or remodel in a way that does not comply with requirements of law on accessibility;

(c) To operate a place of public accommodation that is out of compliance with a law requiring accessibility;

(d) To fail to maintain or fail to continue the accessibility of a place of public accommodation that was required by law

to be accessible when it was built, remodeled, or rehabilitated.

~~((5))~~ **(4) Nonstructural changes.** ~~((After January 1, 1983;))~~ It is an unfair practice under RCW 49.60.215 for a person who is making nonstructural changes in a place of public accommodation to fail to eliminate barriers to same service when this can be done without substantially changing the scope or cost of the project or requiring structural changes that are not otherwise required by law. Specifically, it is an unfair practice:

(a) When installing a nonstructural fixture or component, to choose and install one that is not accessible to the person with a disability or that makes the place of public accommodation less accessible to the person with a disability.

(b) When replacing a nonstructural fixture or component, to replace it with one that is not accessible to the ~~((hand-icapped))~~ person with a disability or one that makes the place of public accommodation less accessible to the person with a disability.

(c) When relocating a nonstructural fixture or component, to relocate it to a place that is not accessible to the person with a disability, unless no suitable place is accessible.

(d) When modifying a nonstructural fixture or component, to do so in a way that does not eliminate barriers to the person with a disability, when possible.

~~((6) What is "structural." "Structural" for purposes of RCW 49.60.215 means the load-bearing members and essential structure or composition of a place, as distinguished from its finish, decorations, or fittings. Examples of structural components are floors, walls, stairs, door openings, sidewalks, elevators, and escalators. Examples of things that are not structural are moveable walls, bathroom fixtures and partitions, fixtures such as water fountains (whether or not attached to a wall), doors and door hardware, cabinets, eounters, handrails, signs (attached or painted), elevator controls, alarm systems, and carpeting or other floor covers.))~~

AMENDATORY SECTION (Amending WSR 98-08-035, filed 3/23/98, effective 4/23/98)

WAC 162-26-110 Behavior causing risk. (1) **Proviso interpreted.** This section interprets the following proviso of RCW 49.60.215:

"Provided, That behavior or actions constituting a risk to property or other persons can be grounds for refusal and shall not constitute an unfair practice."

(2) **General rule.** It is not an unfair practice under RCW 49.60.215 to deny a person service in a place of public accommodation because that person's behavior or actions constitute a risk to property or other persons. ~~((It is not an unfair practice to request that a trained dog guide or service animal be removed because the behavior or actions of that dog guide or service animal constitute an unreasonable risk to property or other persons.))~~

(3) **Individual judgment required.** To come within this exception, the denial of service must be based on knowledge of the present behavior or actions of the individual who is not served. It is an unfair practice to exclude all persons who have a disability or who have a particular disability unless the operator of the place of public accommodation can

show that all persons with the disability will present a risk to persons or property.

~~((To come within this exception, the removal of a trained dog guide or service animal must be based on knowledge of the present behavior or actions of the dog guide or service animal. It is an unfair practice to exclude all of the particular dog guides or service animals unless the place of public accommodation can show that all of the particular dog guides or service animals will present an unreasonable risk to property or other persons.))~~

(4) **Likelihood of injury.** Risk to property or other persons must be immediate and likely, not remote or speculative.

(5) **Degree of risk.** Risk of injury to persons may be given more weight than risk of injury to property. Risk of severe injury may be given more weight than risk of slight injury.

(6) **Risk to person with a disability** ~~((or trained dog guide or service animal))~~. Risk to the person with a disability ~~((or trained dog guide or service animal))~~ is not a reason to deny service. ~~((Liability for injury to customers with a disability is governed by law other than the law against discrimination.))~~ Law other than the law against discrimination governs liability for injury to customers with a disability. The law against discrimination affects tort liability only insofar as it includes persons with a disability within the public for which public accommodations must be made safe.

(7) **Annoyance to staff or other customers.** Annoyance on the part of staff or customers of the place of public accommodation at the abnormal appearance or behavior of a person with a disability is not a "risk to property or other persons" justifying nonservice. ~~((Annoyance on the part of staff or customers of the place of public accommodation at the presence of the dog guide or service animal is not an unreasonable "risk to property or other persons" justifying the removal of the dog guide or service animal.))~~

(8) **Least discriminatory solution required.** It is an unfair practice to deny a person with a disability the enjoyment of an entire place of public accommodation because the person presents a risk of injury when using part of the place. When risk justifies not serving a person with a disability in the same way or same place as other customers, the person should be served through reasonable accommodation (WAC 162-26-060, ~~((161-26-080 [162-26-080]) or arranged service (WAC 162-26-060, 162-260-090))~~ 162-26-080), if possible. ~~((When risk justifies removal of a dog guide or service animal from the place of public accommodation, efforts must be made to reasonably accommodate the person with a disability.))~~

AMENDATORY SECTION (Amending WSR 98-08-035, filed 3/23/98, effective 4/23/98)

WAC 162-26-120 ~~((Failure to meet))~~ **Requirements of other law.** (1) ~~((Unfair practice. It is an unfair practice under RCW 49.60.215 for the operator of a place of public accommodation to refuse or fail to comply with any specific requirement of law for the benefit of persons with disabilities applicable to the place of public accommodation.))~~

(2) **All sources of law covered.** This section applies to all requirements imposed by or authorized by any law of the

United States, the state of Washington, or any ordinance of a unit of local government within the state of Washington.

(3)) **Guidance.** Failure to meet requirements of related law protecting persons with disabilities in places of public accommodation may be evidence of an unfair practice under RCW 49.60.215. The commission may refer to standards established in related law for guidance in determining whether an unfair practice under RCW 49.60.215 has occurred.

(2) **References to selected laws.** ~~((Some of the laws to which this section applies are:))~~ Related law may include, but is not limited to:

(a) Chapter 28A.13 RCW (education for handicapped children);

(b) Sections 503 and 504 of the United States Rehabilitation Act of 1973, 29 U.S.C. §§793 and 794~~((, and all regulations of agencies of the United States government issued pursuant to them));~~

(c) Chapter 70.84 RCW, the "white cane law"(~~(-)~~)¹;

(d) Chapter 2.42 RCW (Interpreters in legal proceedings);

(e) The Washington State Building Code;

(f) The Americans with Disabilities Act of 1990;

(g) The Individuals with Disabilities Education Act;

(h) The Air Carriers Access Act;

(i) The Federal Fair Housing Act.

NEW SECTION

WAC 162-26-135 Removal of a dog guide or service animal. (1) **General rule.** It is an unfair practice for a place of public accommodation to ask that a trained dog guide or service animal be removed, unless that place of public accommodation can show that the presence, behavior or actions of that dog guide or service animal constitutes an unreasonable risk of injury or harm to property or other persons.

It is an unfair practice to remove a trained dog guide or service animal from the entire place of public accommodation because the dog guide or service animal presents a risk of injury or harm when in part of the place of public accommodation.

(2) **Assessing risk of injury or harm.**

(a) Risk to property or other persons must be immediate or reasonably foreseeable under the circumstances, not remote or speculative. Risk to persons may be given more weight than risk to property. Risk of severe injury or harm may be given more weight than risk of slight injury or harm. For example, a barber excludes a patron's dog guide because; "It might bite somebody —I don't allow any dogs in here." This is **not** "reasonably foreseeable risk" justifying removal of the dog guide.

(b) Annoyance on the part of staff or other customers of the place of public accommodation at the presence of the dog guide or service animal is not an unreasonable "risk to property or other persons" justifying the removal of the dog guide or service animal.

(c) Risk of injury or harm to the dog guide or service animal is not a reason for a place of public accommodation to exclude the animal. The decision whether to bring the animal

into a place of public accommodation under such circumstances most properly rests with the person with a disability using the dog guide or service animal.

(3) **Duty to reasonably accommodate.** When risk justifies the removal of a dog guide or service animal from the place of public accommodation, efforts must be made to reasonably accommodate the person with the disability.

(4) **Liability.** Law other than the law against discrimination governs liability for injury or harm. Generally, a person with a disability using a dog guide or service animal is responsible for the animal and may be held liable for the behavior and actions of the animal.

AMENDATORY SECTION (Amending WSR 98-08-035, filed 3/23/98, effective 4/23/98)

WAC 162-26-140 Unfair to request or require waiver of rights. This section is intended to prohibit waivers on the basis of disability, but is not intended to preclude waivers required on a nondiscriminatory basis.

(1) It is an unfair practice for any person to request or require another person to waive rights or hold anyone harmless as a condition of the use or enjoyment of a place of public accommodation by a disabled person.

(2) It is an unfair practice to request or require another person to waive rights or hold anyone harmless as a condition of the use or enjoyment of a place of public accommodation by a disabled person using a dog guide or service animal. ~~((This section is intended to prohibit waivers on the basis of disability, but is not intended to preclude waivers required on a nondiscriminatory basis.))~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 162-26-020	Purpose of chapter.
WAC 162-26-030	Related law.
WAC 162-26-035	Concurrent remedy in court.
WAC 162-26-050	Who is protected.
WAC 162-26-090	Arranged service.

AMENDATORY SECTION (Amending Order 9, filed 9/23/71)

WAC 162-30-010 General ~~((approach))~~ purpose and scope. ~~((In the interest of consistency and to avoid confusion on the part of persons governed by both the state and federal sex discrimination laws, the commission will generally follow interpretations of the sex discrimination provisions of Title VII of the United States Civil Rights Act of 1964, 42 USC § 2000e and following, where the federal act is comparable to the state act. See in particular part 1604 of the regulations of the United States Equal Employment Opportunity Commission, 42 [29] CFR Part 1604. The commission will not follow federal precedents where it believes that a different interpretation will better carry out the purposes of the~~

~~state act.))~~ The general purpose of the law against discrimination in employment because of sex is to equalize employment opportunity for men and women. This chapter interprets and implements the sex discrimination protection of RCW 49.60.180, and provides guidance regarding certain specific forms of sex discrimination.

AMENDATORY SECTION (Amending Order 15, filed 9/28/73)

WAC 162-30-020 ~~((Maternity-))~~ Pregnancy, child-birth, and pregnancy related conditions. ~~(1) Findings. Pregnancy is an expectable incident in the life of a woman. Many women of childbearing age depend on their jobs for economic support. Practices such as terminating pregnant women, refusing to grant leave or accrued sick pay for disabilities relating to pregnancy, or refusing to hire women for responsible jobs because they may become pregnant, impair the opportunity of women to obtain employment and to advance in employment on the same basis as men. Such practices discriminate against women because of their sex.~~

~~(2))~~ **Purposes.** The overall purpose of the law against discrimination in employment because of sex ~~((chapter 49.60 RCW))~~ is to equalize employment opportunity for men and women. This regulation explains how the law applies to employment practices ~~((which))~~ that disadvantage women because of pregnancy or childbirth.

~~((3))~~ **Hiring pregnant women.** ~~It is an unfair practice for an employer to refuse to hire a qualified woman because of pregnancy unless doing so would be unreasonable in view of the necessities of the business. The burden shall be on the employer to show that a decision not to hire a pregnant woman was based on adequate facts concerning her individual ability to perform the job or adequate facts concerning business necessity.)~~ **Findings and definitions.** Pregnancy is an expectable incident in the life of a woman. Discrimination against women because of pregnancy or childbirth lessens the employment opportunities of women.

(a) "Pregnancy" includes, but is not limited to, pregnancy, the potential to become pregnant, and pregnancy related conditions.

(b) "Pregnancy related conditions" include, but are not limited to, related medical conditions, miscarriage, pregnancy termination, and the complications of pregnancy.

(3) Unfair Practices.

(a) It is an unfair practice for an employer, because of pregnancy or childbirth, to:

(i) Refuse to hire or promote, terminate, or demote, a woman;

(ii) Impose different terms and conditions of employment on a woman.

(b) The sole exception to (a) of this subsection is if an employer can demonstrate business necessity for the employment action. For example, an employer hiring workers into a training program that cannot accommodate absences for the first two months might be justified in refusing to hire a pregnant woman whose delivery date would occur during those first two months. ~~((On the other hand, negative assumptions about pregnant women in employment must not influence the~~

PROPOSED

hiring decision. Such assumptions include but are not limited to:

~~((a) That))~~ (c) It is an unfair practice to base employment decisions or actions on negative assumptions about pregnant women, such as:

(i) Pregnant women do not return to the job after childbirth;

~~((b) That))~~ (ii) The time away from work required for childbearing will increase the employer's costs;

~~((e) That))~~ (iii) The disability period for childbirth will be unreasonably long;

~~((d) That))~~ (iv) Pregnant women are frequently absent from work due to illness;

~~((e) That))~~ (v) Clients, co-workers, or customers object to pregnant women on the job;

(vi) The terms or conditions of the job may expose an unborn fetus to risk of harm.

~~(4) ((Treatment of employed women. It is an unfair practice for an employer to discharge a woman, penalize her in terms or conditions of employment, or in any way limit the job opportunities of a woman because she is pregnant or may require time away from work for childbearing.~~

~~(5))~~ Leave ((for temporary disability)) policies.

~~(a) An employer shall provide a woman a leave of absence for the period of time that she is sick or temporarily disabled because of pregnancy or childbirth. ((A leave in excess of the actual period of sickness or disability is not required by the law or this regulation. The terms and conditions of the leave shall be determined by the employer's policy on temporary disability, unless the policy conflicts with this regulation.))~~ Employers must treat a woman on pregnancy related leave the same as other employees on leave for sickness or other temporary disabilities. For example:

~~(i) If ((advance notice is required for a))~~ an employer provides paid leave for ((planned surgeries)) ~~sickness, or other ((anticipated))~~ temporary disabilities, ((it may be required also for a leave for childbirth)) the employer should provide paid leave for pregnancy related sickness or disabilities;

~~(ii) If the uniform policy requires a physician's statement to verify the leave period ((for other disabilities)), a physician's statement may be required to verify the leave period ((for disabilities)) relating to pregnancy or childbirth.~~

~~(iii) If the uniform policy permits the retention and accrual of benefits, such as seniority, retirement, and pension rights, during the leave period for other temporary disabilities, the policy must also permit it during leave for pregnancy related temporary disabilities.~~

~~(iv) If the employer permits extensions of leave time (e.g., use of vacation or leave without pay) for sickness or other temporary disabilities, the employer should permit such extensions for pregnancy related sickness or disabilities.~~

~~(b) ((While))~~ There may be circumstances when the application of the employer's general leave policy to ((disability because of)) ~~pregnancy or childbirth will ((ordinarily)) not afford equal opportunity for women and men((, there may be circumstances when this is not so)).~~ One circumstance would be where the employer allows no leave for any sickness or other disability by any employee, or so little leave time that a pregnant woman must terminate employment.

Because such a leave policy has a disparate impact on women, it is an unfair practice, unless the policy is justified by business necessity.

~~(c) An employer shall allow a woman to return to the same job, or a similar job of at least the same pay, if she has taken a leave of absence only for the actual period of disability relating to pregnancy or childbirth. Refusal to do so must be justified by adequate facts concerning business necessity.~~

~~((6) Disability))~~ (d) Employers may be required to provide family medical leave, in addition to leave under this chapter. Please see appropriate federal and state family and medical leave laws and regulations.

~~(5) Employee benefits. ((Illness or disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom are temporary disabilities and must be treated as such under any sick leave plan or temporary disability benefit plan provided in whole or in part by the employer. All written and unwritten policies and practices concerning disabilities must be applied to disabilities resulting from pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities. For example, if the following benefits or privileges are available for other temporary disabilities, then they must be available also for disabilities resulting from pregnancy or childbirth:~~

~~(a) Payment in lieu of wages under a sick leave plan or temporary disability benefit plan. (If no leave pay is granted for other temporary disabilities, then it need not be granted for disabilities relating to pregnancy or childbirth.)~~

~~(b) Extensions of leave time (e.g., use of vacation or leave without pay);~~

~~(c) Retention and accrual of benefits, such as seniority, retirement, and pension rights, during the leave period.~~

~~(7) Insurance benefits. Insurance))~~ Employee benefits provided in part or in whole by the employer must be equal for male and female employees. For example, it is an unfair practice to:

~~(a) ((If full health insurance coverage is provided for male employees, then full coverage, including maternity and abortion, must be provided for female employees;~~

~~(b) If maternity insurance is provided for the wives of male employees, then the same coverage must be provided for the female employees.~~

~~Subsection 7 applies only if the employer pays the premium in whole or in part or has participated in negotiating the terms of the insurance policy.~~

~~(8))~~ Provide full health insurance coverage to male employees but fail to provide full health insurance coverage, including pregnancy and childbirth, to female employees.

~~(b) Provide maternity insurance to the wives of male employees but fail to provide the same coverage to female employees.~~

~~(6) Marital status immaterial. ((Discrimination because of marital status is an unfair practice. An employer's leave policies and benefits, including health insurance, must apply equally to married and unmarried employees.~~

~~(9))~~ The provisions of this chapter apply irrespective of marital status.

~~(7) Labor unions and employment agencies. ((It is an unfair practice for a labor union or employment agency to~~

conduct its own affairs so as to deny anyone his or her rights under the law and this regulation.

(10) ~~Commission rulings.~~ Any person in doubt as to the application of this regulation to a particular set of facts may request an opinion letter from the executive secretary of the Washington state human rights commission or a declaratory ruling of the commission under WAC 162-08-620.

(11) ~~Construction with federal law.~~ This regulation is intended to be consistent with Title VII of the United States Civil Rights Act of 1964 and the United States Equal Employment Opportunity Commission Employment Policies Relating to Pregnancy and Childbirth, 29 CFR § 1604.10, and shall be construed accordingly.) The provisions of this chapter apply equally to employers, labor unions, and employment agencies.

AMENDATORY SECTION (Amending WSR 98-08-035, filed 3/23/98, effective 4/23/98)

WAC 162-38-040 Definitions. The following words or phrases are used in this chapter in the meaning given, unless the context clearly indicates another meaning.

"Accessible" means usable or understandable by a person who is disabled, with reasonable effort and in reasonable safety.

"Standards for barrier-free facilities" means standards for making building and facilities accessible to physically disabled persons, pursuant to chapter 51-30 WAC and chapter 70.92 RCW. See WAC 162-38-030(2), 162-38-070.

"Disability" is short for "the presence of a sensory, mental or physical disability."

"Landlord" means anyone other than the occupant of real property who attempts to control use of the property under claim of right arising out of an ownership interest in real property by that person or another person for whom that person acts. The term includes owners of rental property, trustees, receivers, persons controlling the common areas used in connection with condominiums, and agents or others acting in the interest of any such persons.

"Rental property" includes real property that is rented or leased, offered for rental or lease, or built or maintained for rental or lease.

"Structural" means the load-bearing members and essential structure or composition of a place, as distinguished from its finish, decorations or fittings. Examples of structural components are floors, walls, stairs, door openings, sidewalks, elevators, and escalators. Examples of things that are not structural are moveable walls, bathroom fixtures and partitions, fixtures such as water fountains (whether or not attached to a wall), doors and door hardware, cabinets, counters, handrails, signs (attached or painted), elevator controls, alarm systems, and carpeting and other floor covers.

"Tenant" is a person who rents or seeks to rent real property.

"()Dog guide()" means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons.()

"()Service animal()" means an animal that is trained for the purpose of assisting or accommodating a disabled person's sensory, mental, or physical disability.()

AMENDATORY SECTION (Amending WSR 98-08-035, filed 3/23/98, effective 4/23/98)

WAC 162-38-100 Persons with dog guides or service animals. (1) **Are protected.** RCW 49.60.222 protects persons with disabilities from discrimination because of their use of a trained dog guide or service animal the same as it protects them from discrimination directly because of disability.

(2) **General rule.** The same rules that apply to the treatment of persons because of disability under RCW 49.60.222 and this chapter apply to the treatment of persons with disabilities because they use a trained dog guide or service animal.

(3) **Landlord's duty.** It is an unfair practice for a landlord to refuse to rent to a person with a disability because the person uses a trained dog guide or service animal. A landlord's no-pet policy cannot be applied to the dog guide or service animal of a person with a disability.

(4) **Cleaning or damage deposits not unfair.** It is not an unfair practice for a landlord to enforce on a tenant with a disability using a dog guide or service animal its standard cleaning or damage deposit ~~((for dogs or other animals. It is not an unfair practice for a landlord who otherwise doesn't allow dogs or other animals in the rented property to require a reasonable cleaning or damage deposit for the dog or other animal when renting to a person with a disability using a trained dog guide or service animal))~~ if the same cleaning or damage deposit is enforced equally on all tenants.

(5) **Pet deposits unfair.** It is an unfair practice for a landlord to enforce on a tenant with a disability using a dog guide or service animal a pet deposit in addition to any standard cleaning or damage deposit.

NEW SECTION

WAC 162-38-105 Removal of dog guides and service animals. (1) **General rule.** It is an unfair practice to request that a trained dog guide or service animal be removed, unless the person can show:

(a) That the presence, behavior or actions of that dog guide or service animal constitutes an unreasonable risk of injury or harm to property or other persons; and

(b) A reasonable attempt to eliminate the behavior or actions of that dog guide or service animal that constitutes an unreasonable risk fails.

It is an unfair practice to remove a trained dog guide or service animal from the entire rental property because the animal presents a risk of injury or harm when in part of the rental property.

(2) **Assessing risk of injury or harm.**

(a) Risk to property or other persons must be immediate or reasonably foreseeable under the circumstances, not remote or speculative. Risk to persons may be given more weight than risk to property. Risk of severe injury or harm may be given more weight than risk of slight injury or harm. For example, an apartment manager excludes a tenant's dog guide because, "a pet dog bit one of the kids here a while back, so now I don't allow any dogs in the complex." This is

not "reasonably foreseeable risk" justifying removal of the dog guide.

(b) Annoyance on the part of staff or other tenants of the rental property at the presence of the dog guide or service animal is not an unreasonable "risk to property or other persons" justifying the removal of the dog guide or service animal.

(c) Risk of injury or harm to the dog guide or service animal is not a reason to remove or exclude the animal. The decision whether to bring the animal into the rental property under such circumstances most properly rests with the person with a disability using the dog guide or service animal.

(3) **Reasonable accommodation.** When risk justifies the removal of a dog guide or service animal from a rental property, efforts must be made to reasonably accommodate the person with the disability.

(4) **Liability.** Law other than the law against discrimination governs liability for injury or harm. Generally, a person with a disability using a dog guide or service animal is responsible for the animal and may be held liable for the actions or behavior of the animal.

AMENDATORY SECTION (Amending WSR 96-13-045, filed 6/13/96, effective 7/14/96)

WAC 162-38-110 Inquiries to disabled applicants.
~~((+)) Unfair practice.~~ It is an unfair practice under RCW 49.60.222 (1)(g) for a landlord to inquire into matters personal to a disabled applicant beyond what is necessary and appropriate to the landlord-tenant relationship. For example, the landlord may inquire as to how many persons will occupy the unit, but ordinarily will have no other reason to know whether ~~((a disabled person is assisted by))~~ an aide assists a person with a disability, and when.

~~((2) Reference to employment rules. The commission's rules on pre-employment inquiries, chapter 162-12 WAC, implement a parallel statute and furnish analogies for the application of this portion of the real estate transactions law.))~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 162-38-130 Behavior causing risk.

**WSR 99-04-110
 PROPOSED RULES
 STATE BOARD OF EDUCATION**
 [Filed February 3, 1999, 11:00 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-16-098.

Title of Rule: WAC 180-82-315 Designated science: Biology—Secondary, supporting, 180-82-317 Designated science: Chemistry—Secondary, supporting, 180-82-319 Designated science: Earth science--Secondary, supporting,

180-82-321 Designated science: Physics--Secondary, supporting, and 180-82-349 Designated science: Mathematics—Secondary, supporting.

Purpose: To create supporting endorsements for teacher certificates in the above-mentioned areas.

Statutory Authority for Adoption: RCW 28A.305.130 (1) and (2), 28A.410.010.

Summary: The proposed new sections will create supporting endorsements in math and four areas of science.

Reasons Supporting Proposal: This will encourage additional people to seek endorsements in these areas.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

Name of Proponent: State Board of Education, governmental.

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

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

Proposal Changes the Following Existing Rules: See above.

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

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

Hearing Location: Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA 98501, on March 17, 1999, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Patty Martin by March 5, 1999, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by March 5, 1999.

Date of Intended Adoption: March 19, 1999.

February 2, 1999
 Larry Davis
 Executive Director

NEW SECTION

WAC 180-82-315 Designated science: Biology—Secondary, supporting. In order to receive a supporting endorsement in designated science: Biology, the candidate shall have completed a state approved preparation program in designated science: Biology which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills from the following areas*:

- (1) Botany with lab.
- (2) Zoology with lab.
- (3) Genetics.
- (4) Microbiology or cell biology with lab.
- (5) Chemistry with lab.

PROPOSED

- (6) Ecology.
- (7) Evolution.
- (8) Lab safety, practice, and management.
- (9) Lab, inquiry-based experience.
- (10) Relationship of the concepts of science to contemporary, historical, technological, and societal issues.

* Program must include #(8) Lab safety, practice and management.

NEW SECTION

WAC 180-82-317 Designated science: Chemistry—Secondary, supporting. In order to receive a supporting endorsement in designated science: Chemistry, the candidate shall have completed a state approved preparation program in designated science: Chemistry which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills from the following areas*:

- (1) General principles of chemistry with lab (i.e., inorganic, physical, and analytical).
- (2) Advanced study in organic chemistry with lab.
- (3) Quantitative analysis with lab.
- (4) Biochemistry with lab.
- (5) Physics.
- (6) Lab safety, practice, and management.
- (7) Lab, inquiry-based experience.
- (8) Relationship of the concepts of science to contemporary, historical, technological, and societal issues.

* Program must include #(6) Lab safety, practice and management.

NEW SECTION

WAC 180-82-319 Designated science: Earth science—Secondary, supporting. In order to receive a supporting endorsement in designated science, the candidate shall have completed a state approved preparation program in designated science: Earth science which shall be comprised of the appropriate pedagogy courses and field experience/internship, pursuant to chapter 180-78A WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills from the following areas*:

- (1) Physical geology.
- (2) Historical geology.
- (3) Environmental issues related to earth science.
- (4) Oceanography.
- (5) Astronomy.
- (6) Meteorology.
- (7) Lab safety, practice, and management.
- (8) Lab, inquiry-based experience.

(9) Relationship of the concepts of science to contemporary, historical, technological, and societal issues.

* Program must include #(7) Lab safety, practice and management.

NEW SECTION

WAC 180-82-321 Designated science: Physics—Secondary, supporting. In order to receive a supporting endorsement in designated science: Physics, the candidate shall have completed a state approved preparation program in designated science: Physics which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) General principles of physics, with lab.
- (2) Lab safety, practice and management.
- (3) Lab, inquiry-based experience.
- (4) Relationships of the concepts of science to contemporary, historical, technological and societal issues.

NEW SECTION

WAC 180-82-349 Mathematics—Secondary, supporting. In order to receive a supporting endorsement in mathematics, the candidate shall have completed a state approved preparation program in mathematics which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Geometry (Euclidean and non-Euclidean).
- (2) Probability and statistics.
- (3) Logic and problem solving.
- (4) History of math or foundations of math.

WSR 99-04-111

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed February 3, 1999, 11:07 a.m.]

Original Notice.

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

Title of Rule: Chapter 16-662 WAC, National handbooks.

Purpose: Adopt the 1999 versions of NIST Handbook 130 and NIST Handbook 44 and adopt a new exception to NIST Handbook 44.

Statutory Authority for Adoption: RCW 19.94.190.

Statute Being Implemented: RCW 19.94.195.

Summary: This change adopts the 1999 versions of NIST Handbook 130 and NIST Handbook 44 as required by RCW 19.94.195. The change makes modifications to NIST Handbook 44 for acceptance tolerances, maintenance of equipment, direct sale and vehicle-tank meters. Modifications to NIST Handbook 130 are also made in the area of Gasoline-Oxygenate Blends and Animal Bedding.

Reasons Supporting Proposal: This rule adopts the most current weights and measurements requirements addressed and adopted by the National Conference on Weights and Measures into Washington state rule. Adoption of national standards ensure we are consistent with national standards.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jerry Buendel, 1111 Washington Street, Olympia, WA, (360) 902-1856.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This change adopts the 1999 versions of NIST Handbook 130 and NIST Handbook 44 as required by RCW 19.94.195. The change makes modifications to NIST Handbook 44 for acceptance tolerances, maintenance of equipment, direct sale and vehicle-tank meters. Modifications to NIST Handbook 130 are also made in the area of Gasoline-Oxygenate Blends and Animal Bedding. This rule adopts the most current weights and measurements requirements addressed and adopted by the National Conference on Weights and Measures into Washington state rule. Adoption of national standards ensure we are consistent with national standards.

Proposal Changes the Following Existing Rules: This change adopts the 1999 versions of NIST Handbook 130 and NIST Handbook 44 as required by RCW 19.94.195. The change makes modifications to NIST Handbook 44 for acceptance tolerances, maintenance of equipment, direct sale and vehicle-tank meters. Modifications to NIST Handbook 130 are also made in the area of Gasoline-Oxygenate Blends and Animal Bedding.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule adopted does not place a disproportionate economic impact on small business. The handbooks have been in use in Washington since 1976.

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: Natural Resources Building, Department of Agriculture, 1111 Washington Street, Second Floor, Room 205, Olympia, WA 98504, on March 9, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by March 8, 1999, TDD (360) 902-1996.

Submit Written Comments to: Washington State Department of Agriculture, Jerry Buendel, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2086, by March 8, 1999.

Date of Intended Adoption: March 16, 1999.

February 3, 1999

Julie C. Sandberg

Assistant Director

AMENDATORY SECTION (Amending WSR 98-13-072, filed 6/15/98, effective 7/16/98)

WAC 16-662-105 Adoption—Weighing and measuring equipment requirements—Package checking—Packaging and labeling—Method of sale—Price verification. (1) The specifications, tolerances, and other technical requirements for the design, manufacture, installation, performance test, and use of weighing and measuring equipment shall be those contained in the ((1998)) 1999 Edition of the National Institute of Standards and Technology (NIST) Handbook 44, published by the U.S. Department of Commerce, entitled the *National Institute of Standards and Technology Handbook 44 - Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices*.

(2) The procedures for checking the accuracy of the net contents of packaged goods shall be those contained in the Third Edition of National Bureau of Standards (NBS) Handbook 133 published by the United States Department of Commerce, entitled the *National Bureau of Standards Handbook 133 - Third Edition - Checking the Net Contents of Packaged Goods* as modified by NIST Handbook 133 Supplements 1, 2, 3, and 4, issued in 1990, 1991, 1992, and 1994 respectively.

(3) The requirements for packaging and labeling, method of sale of commodities, and the examination procedures for price verification shall be those contained in the ((1998)) 1999 Edition of National Institute of Standards and Technology Handbook 130, entitled the *NIST Handbook 130 - Uniform Laws And Regulations in the areas of legal metrology and motor fuel quality*, specifically:

(a) Weights and measures requirements for all food and nonfood commodities in package form shall be the *Uniform Packaging and Labeling Regulation* requirements as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, 1998 Edition.

(b) Weights and measures requirements for the method of sale of food and nonfood commodities shall be those found in the *Uniform Regulation for the Method of Sale of Commodities* as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, ((1998)) 1999 Edition.

(c) Weights and measures requirements for price verification shall be the *Examination Procedures for Price Verification* as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, ((1998)) 1999 Edition.

PROPOSED

AMENDATORY SECTION (Amending WSR 97-12-075, filed 6/4/97, effective 7/5/97)

WAC 16-662-110 Modifications to NIST Handbook 44. The following modifications are made to Handbook 44, identified in WAC 16-662-105:

(1) General Code:

(a) Section G-T. Tolerances. In paragraphs (b), (c), and (d) of subsection G-T.1. "Acceptance Tolerances", change "30 days" to "90 days."

(b) Section G-UR. User Requirements. In the last sentence of subsection G-UR.4.1. "Maintenance of Equipment", change "device user" to "device owner or operator."

(2) Scale Code: Section UR.3. Use Requirements. At the end of subsection UR.3.7.(a) add "and homeowner refuse."

(3) Vehicle-Tank Meters Code: Section UR.2.2 Ticket Printer; Customer Ticket. Change the effective dates in brackets at the end of the section to read as follows (Nonretroactive as of June 30, 1999. To become retroactive as of January 1, 2001.)

(4) Appendix D Definitions, Direct Sale. Replace with the following: "A sale in which both parties in the transaction are present when the quantity is being determined."

**WSR 99-04-118
PROPOSED RULES
PARKS AND RECREATION
COMMISSION**

[Filed February 3, 1999, 11:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-131.

Title of Rule: WAC 352-32-25001 - 25002 Recreational and conference center housing fees and meeting room fees charged. Campsite and rally area reservations Fort Worden State Park.

Purpose: To amend WAC 352-32-25001 and eliminate WAC 352-32-25002.

Statutory Authority for Adoption: RCW 43.51.040.

Summary: Staff is requesting that this WAC be amended to direct visitors to contact Fort Worden State Park to obtain reservation policies, procedures and fees.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kathryn J. Smith, 7150 Cleanwater Lane, (360) 902-8594.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Changes to this WAC will direct visitors to contact Fort Worden State Park to obtain information regarding reservation policies, procedures and fees.

Proposal Changes the Following Existing Rules: These changes eliminate duplicate language found in park policy and procedure and direct visitors to Fort Worden State Park for updated visitor information on reservation policies, procedures and fees.

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

does not regulate or have economic impact through regulations on small businesses. There are no compliance costs to small business.

RCW 34.05.328 does not apply to this rule adoption. Significant legislative rule-making requirements are not imposed on the state Parks and Recreation Commission nor has the commission voluntarily applied these requirements.

Hearing Location: Ocean Shores Convention Center, 120 West Chance-Ala-Mer, P.O. Box 1447, Ocean Shores, 98569, on March 19, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Gus Gustafson by March 5, TDD (360) 753-2036, or (360) 753-7143.

Submit Written Comments to: Pam McConkey, fax (360) 753-1594, by March 12, 1999.

Date of Intended Adoption: March 19, 1999.

February 3, 1999

Jim French

Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 98-04-065, filed 2/2/98, effective 3/5/98)

~~WAC 352-32-25001 ((Recreational and conference center housing fees and meeting room fees charged.)) Fort Worden reservations and fees. ((Recreation and conference center housing and meeting room fees for Fort Worden State Park are reviewed and modified as necessary by the commission each year. A fee schedule listing these fees is available by contacting Fort Worden State Park, 200 Battery Way, Port Townsend, Washington 98368. In reservation of facilities at Fort Worden State Park, certain deposits and cancellation fees apply. Consult the annual fee schedule for reservation, deposit and cancellation rules and information. Consistent with the Fort Worden State Park Master Facility Use Plan, conference groups may also reserve campsites in advance as their sole overnight accommodation. *Provided*, That there will be a twenty site minimum for any individual reservation. During the months of May through September only the upper campground may be reserved by such conference groups. During the months of October through April, all of the upper campground and twenty sites in the beach level campground may be reserved by conference groups.)) Reservations, use policies and fee schedules for facilities at Fort Worden State Park, including recreational housing, conference center housing, meeting rooms, campsites, and rally areas are available by contacting Fort Worden State Park, 200 Battery Way, Port Townsend, Washington 98368. Reservations are accepted at Fort Worden by telephone, by mail or in person. Certain deposits, reservation and cancellation fees apply as set forth in the fee schedule published by state parks.~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 352-32-25002 Campsite and rally area reservations—Fort Worden State Park.

PROPOSED

WSR 99-04-020
EXPEDITED ADOPTION
DEPARTMENT OF REVENUE

[Filed January 22, 1999, 3:09 p.m.]

Title of Rule: Amending section WAC 458-20-238
 Sales of watercraft to nonresidents.

Purpose: The purpose of the rule is to explain the retail sales and use tax exemptions provided for out-of-state residents and residents of foreign countries relating to watercraft. The rule advises nonresidents, vessel dealers, and Department of Revenue personnel about the various taxes and tax exemptions which may apply to the purchase or use of watercraft in the state.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.08.0266, 82.08.02665, and 82.12.0251 (in part).

Summary: This rule explains the retail sales tax exemptions provided by RCW 82.08.0266 and 82.08.02665 for sales of watercraft to nonresidents. It also explains the use tax exemptions provided to nonresidents using watercraft in Washington by RCW 82.12.0251.

Reasons Supporting Proposal: The department has adopted the vessel registration requirements standards administered by the Department of Licensing for the purpose of determining the eligibility of nonresidents to claim the use tax exemption available for the "temporary" use of vessels within Washington. This amendment is necessary to incorporate chapter 83, Laws of 1997 (as modified by chapter 198, Laws of 1998) which extended the length of time nonresident individuals can use a vessel in Washington without having to register the vessel.

Name of Agency Personnel Responsible for Drafting: D. Douglas Titus, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 664-0687; Implementation: Claire Hesselholt, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 753-3446; and Enforcement: Russell W. Brubaker, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule advises nonresidents, vessel dealers, and Department of Revenue personnel about the various taxes and tax exemptions which may apply to the purchase or use of watercraft in the state. The rule explains the retail sales exemptions provided for sales of watercraft to out-of-state residents and residents of foreign countries. It also discusses use tax exemptions for certain nonresidents bringing watercraft into Washington for use or enjoyment and/or repair. The rule explains the documentation requirements that must be satisfied to support a claim for the sales and/or use tax exemptions, providing examples of the certificates to be used to substantiate the exempt nature of a sale. The rule, as amended, explains that the time a nonresident individual may bring watercraft into the state for temporary use or enjoyment without incurring a use tax liability has been extended from a maximum of sixty days to a possible maximum of six months

in a twelve-month period, subject to certain Department of Licensing identification conditions.

Proposal Changes the Following Existing Rules: WAC 458-20-238 includes an explanation of the use tax exemption provided to nonresidents "temporarily" using vessels within Washington by RCW 82.12.0251. The Department of Revenue has traditionally followed the registration statutes administered by the Department of Licensing for the purposes of administering this use tax exemption. Chapter 83, Laws of 1997, as modified by chapter 198, Laws of 1998, revised the registration statutes to extend the period of time a nonresident individual may use a vessel within Washington without being required to register the vessel. WAC 458-20-238 is being amended to incorporate this change.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO D. Douglas Titus, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail dougt@dor.wa.gov, AND RECEIVED BY April 3, 1999.

January 22, 1999

Claire Hesselholt, Rules Manager
 Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 95-24-103, filed 12/6/95, effective 1/6/96)

WAC 458-20-238 Sales of watercraft to nonresidents.

(1) **Introduction.** This ~~((section))~~ rule explains the retail sales tax exemption provided by RCW 82.08.0266 for sales to nonresidents of watercraft requiring United States Coast Guard ~~((registration or))~~ documentation or state registration. It also explains the retail sales tax exemption provided by RCW 82.08.02665 for sales of watercraft to residents of foreign countries ~~((, which became effective July 25, 1993. (See chapter 119, Laws of 1993.)))~~. These statutes provide the exclusive authority for granting a retail sales tax exemption for sales of such watercraft when delivery is made within Washington. This ~~((section))~~ rule explains the requirements ~~((which must))~~ to be met, and the documents which must be preserved, to substantiate a claim of exemption. It also discusses use tax exemptions for nonresidents bringing watercraft into Washington for enjoyment and/or repair.

This ~~((section))~~ rule primarily deals with the retail sales and use taxes where delivery takes place in Washington. ~~((Purchasers of watercraft should also be aware that there is a watercraft excise tax which may apply to the purchase or use of watercraft in Washington. (See chapter 82.49 RCW.)))~~ Sellers should refer to WAC 458-20-193 if they deliver the vessel to the purchaser at an out-of-state location. Purchasers

EXPEDITED ADOPTION

of watercraft should also be aware that there is a watercraft excise tax which may apply to the purchase or use of watercraft in Washington. (See chapter 82.49 RCW.) In addition, purchasers of commercial vessels may have annual liability for personal property tax. (See RCW 84.08.065.)

(2) **Business and occupation tax.** Retailing B&O tax is due on all sales of watercraft to consumers under RCW 82.08.0265 and 82.08.0266 if delivery is made within the state of Washington, (~~notwithstanding~~) even though the sale may qualify for an exemption from the retail sales tax. If the seller is also the manufacturer of the vessel, the seller must (~~generally~~) report under both the (~~"production" (extracting and/or)~~) manufacturing(~~(-)~~) and (~~"selling" (-)~~)wholesaling or retailing(~~(-)~~) classifications of the B&O tax, and claim a tax credit under the multiple activities tax credit system. Manufacturers should (~~also~~) refer to WAC 458-20-136 (Manufacturing, processing for hire, fabricating) and WAC 458-20-19301 (Multiple activities tax credits).

(3) **Retail sales tax.** The retail sales tax generally applies to the sale of watercraft to consumers when delivery is made within the state of Washington. However, under certain conditions retail sales tax exemptions are available for sales of watercraft to nonresidents of Washington, even when delivery is made within Washington.

(a) **Sales to residents of other states.** RCW 82.08.0266 provides an exemption from the retail sales tax for sales of watercraft to residents of states other than Washington for use outside this state, even when delivery is made within Washington. This specific exemption does not apply to sales of watercraft to (~~Canadian or other foreign country~~) residents of foreign countries. The retail sales tax exemption which is available for sales of watercraft to Canadian or other foreign country residents is explained in (b) of this subsection.

(i) The exemption provided by RCW 82.08.0266 is limited to (~~the following~~):

(A) ~~Sales of watercraft which are required to obtain United States Coast Guard documentation; and~~

(B) ~~sales of watercraft requiring (registration by the)~~ United States Coast Guard documentation or registration with the state in which the vessel will be principally used, but only when that state has assumed the registration and numbering function under the Federal Boating Act of 1958.

(ii) The following requirements must be met to perfect any claim for exemption:

(A) The watercraft must leave Washington waters within forty-five days of delivery;

(B) The seller must examine acceptable proof that the buyer is a resident of a state other than the state of Washington; and

(C) The seller, at the time of the sale, must retain as a part of its records a completed exemption certificate. (See subsection (4) of this (~~section~~) rule.)

(b) **Sales to residents of foreign countries.** RCW 82.08.02665 provides a retail sales tax exemption for sales of vessels to residents of foreign countries for use outside this state, even when delivery is made in Washington. (~~This exemption became effective July 25, 1993. (See chapter 119, Laws of 1993.)~~)

(i) The term "vessel," for the purposes of this subsection, means every watercraft used or capable of being used as a means of transportation on the water, other than a seaplane. This exemption is not limited to the types of watercraft qualifying for the exemption discussed in (a) of this subsection.

(ii) The following requirements must be met to perfect any claim for exemption:

(A) The watercraft must leave Washington waters within forty-five days of delivery;

(B) The seller must examine acceptable proof that the buyer is a resident of a foreign country; and

(C) The seller, at the time of the sale, must retain as a part of its records a completed exemption certificate. (See subsection (4) of this (~~section~~) rule.)

(c) **Watercraft qualifying for exemption under RCW 82.08.0266 and 82.08.02665.** The exemptions provided by RCW 82.08.0266 and 82.08.02665 apply only to sales of watercraft. For the purposes of these exemptions, the term "watercraft" includes component parts which are installed in or on the watercraft prior to the watercraft being delivered to and accepted by the buyer, but only when these parts are sold by the seller of the watercraft. "Component part" means tangible personal property which is attached to the watercraft and used as an integral part of the operation of the watercraft, even if the item is not required mechanically for the operation of the watercraft. Component parts include, but are not necessarily limited to, (~~boat~~) motors, navigational equipment, radios, depth(~~-~~)finders, and winches, whether themselves permanently attached to the watercraft or held by brackets which are permanently attached. If held by brackets, the brackets must be permanently attached to the watercraft in a definite and secure manner.

These exemptions do not extend to the sale of boat trailers, repair parts, and repair labor(~~, etc~~). (~~Nor do they~~) These exemptions also do not extend to a separate seller of unattached component parts, even though these parts may be manufactured specifically for the watercraft and/or permanently installed in or on the watercraft prior to the watercraft being delivered to and accepted by the buyer.

(4) **Exemption certificate.** The exemption certificate must be completed in its entirety, and retained by the seller at the time of sale. The seller is required to review one piece of identification substantiating the nonresident status of the customer, and to indicate on the certificate the type of identification examined. This one piece of identification must either be a current and valid driver's license from the jurisdiction in which out-of-state residency is claimed, or a valid identification document which has a photograph of the holder and is issued by the out-of-state jurisdiction. If the customer is a partnership, corporation, limited liability company, association, or any other person who is not a natural person, the seller should refer to subsection (5) of this (~~section~~) rule for an explanation of what constitutes acceptable proof of the customer's nonresident status.

The seller should not accept an exemption certificate if the seller becomes aware of any information prior to completion of the sale which is inconsistent with the purchaser's claim of residency, such as a Washington address on a credit application. The exemption certificate must be substantially in the following form:

EXCEPTION CERTIFICATE

Seller's Name
Buyer's Name
Address of Buyer
State or Foreign Country of Residence
Date of Sale
Make and Model of Vessel
Serial Number of Vessel

I certify that (a) the vessel described above will be ((regis-tered-or)) documented with the United States Coast Guard or registered with the state of principal use; or (b) I am a resident of a foreign country and the vessel has been purchased for use outside the state of Washington. I further certify that this ves-sel will leave Washington state waters within forty-five days of delivery, and the purchase of this vessel is exempt from Washington state retail sales tax under the provisions of either RCW 82.08.0266 or 82.08.02665. This certificate is given with full knowledge of, and subject to, the legally pre-scribed penalties for fraud and tax evasion.

Signature of buyer or buyer's representative

CERTIFICATION BY SELLER

I hereby certify that I have personally examined one of the following items of documentary evidence submitted by the above purchaser to establish residency in the state or coun-try of :

- ...Driver's License (list license number and date of expiration)
...Identification Card (list card number and date of expiration)

Signature of seller or agent of seller

(5) Sales to residents of other states or countries who are not natural persons. The types of identification described in subsection (4) of this ((section)) rule are not applicable for establishing the residency of partnerships, cor-porations, limited liability companies, or other persons who are not natural persons. Because many of the types of docu-mentation which would establish the nonresident status of these persons contain confidential information (e.g., federal income tax returns), the seller may satisfy its requirement to examine and record documentary evidence by retaining at the time of sale a completed affidavit, executed by a duly autho-rized representative of the buyer, substantially in the follow-ing form:

AFFIDAVIT OF OUT-OF-STATE RESIDENCY

(This affidavit for use only by purchasers who are not natural persons, such as corporations.)

Name of buyer
Address
State or foreign country of residency

Registration #
Type of entity (e.g., corporation, partnership, etc.)
I certify that . . . (buyer's name) . . . is a resident of . . . (state or foreign country). . .
Name and title of buyer's representative (printed)
Signature of buyer's representative

The affidavit of out-of-state residency may only be accepted and used for establishing the nonresident status of persons who are not natural persons. It may not be used as documentary evidence for sales to natural persons. The seller must at the time of sale retain this affidavit as well as the exemption certificate described in subsection (4) of this ((section)) rule. A partnership, corporation, limited liability company, or other person who is not a natural person is a "nonresident" for the purposes of exemption under RCW 82.08.0266 or 82.08.02665 if that person's principal place of business is not in Washington, and that person is not incorpo-rated in Washington.

(6) Deferred retail sales or use tax. If Washington retail sales tax has not been paid, persons using watercraft on Washington waters are ((generally subject to the)) required to report such sales tax (commonly referred to as deferred retail sales tax) or use tax ((if Washington retail sales tax has not been paid)), unless ((such)) the use is specifically ((exempted)) exempt by law ((from the use tax)).

(a) ((The deferred retail sales tax or use)) Tax is due on the use by any nonresident of watercraft purchased from a Washington vendor and first used within this state for more than forty-five days if retail sales or use tax has not been paid by the user. Tax is due notwithstanding the watercraft quali-fied for retail sales tax exemption at the time of purchase.

(b) Watercraft brought into this state by nonresidents for their use ((and)) or enjoyment while temporarily within this state are exempt from the use tax. ((However)) Except as oth-erwise provided in this rule, it will be presumed that ((usage)) use within Washington ((which exceeds more than)) exceed-ing sixty days in any twelve-month period is more than tem-porary ((usage)) use and use tax is due. Effective January 1, 1998, nonresident individuals may temporarily bring into this state for their use or enjoyment watercraft which are issued a valid number under federal law or by an approved authority of the state of principal operation (chapter 83, Laws of 1997). These watercraft are exempt from the use tax where such use does not exceed a total of six months in any twelve-month period. Any temporary use after the first sixty days must be pursuant to a valid two-month identification document issued by the department of licensing under RCW 88.02.030. Fail-ure to have a valid identification document during any period of use in Washington after the first sixty days will result in a loss of the exemption.

(c) Watercraft temporarily brought into this state by non-residents for repair, alteration, or reconstruction are exempt from the use tax ((if removed from this state within sixty days)). "Temporarily" for the purposes of this subsection has the same meaning as described in subsection (6)(b) of this rule, provided in the case of nonresident individuals the appropriate identification document issued by the department

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of licensing pursuant to RCW 88.02.030 is obtained. If repair, alteration, or reconstruction cannot be ~~((made))~~ completed within this period, the exemption may be extended by ~~((completing and))~~ filing with ~~((this))~~ the department of revenue compliance division an affidavit as required by RCW 88.02.030 verifying the vessel is located upon the waters of this state exclusively for repair, alteration, reconstruction, or testing. This ~~((affidavit))~~ document, titled "Nonresident Out-of-State Vessel Repair Affidavit," is effective for sixty days. If additional extensions of the exemption period are needed, additional affidavits ~~((may))~~ must be ~~((completed. The affidavit should be))~~ sent to the department ~~((of revenue compliance division)).~~ ~~((This affidavit is the affidavit which is required under RCW 88.02.030, and))~~ Failure to ~~((complete))~~ file this affidavit can also result in requiring that the vessel be registered in Washington.

(7) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances. In all examples, retailing B&O tax is due from the seller for all sales of watercraft and parts, and all charges for repair parts and labor.

(a) ~~((Company A sells a vessel to Jane Smith, a Canadian resident. Company A examines Jane Smith's driver's license to verify Jane to be a resident of Canada, and retains the proper exemption certificate at the time of sale. Delivery is made in Washington and Jane removes the vessel from Washington waters within forty five days of delivery. The sale of the vessel is not subject to the retail sales tax because all requirements for exemption under RCW 82.08.02665 have been satisfied.~~

(b)) Company A sells a yacht to John Doe, an Oregon resident, who takes delivery in Washington. The yacht is required to be registered by the state of Oregon, which has assumed the registration and numbering function under the Federal Boating Act of 1958. The vessel is removed from Washington waters within forty-five days of delivery. Company A examines a driver's license confirming John Doe to be an Oregon resident, and records this information in the sales file. Company A does not complete and retain the required exemption certificate.

The sale of the yacht is subject to the retail sales tax. The exclusive authority for granting a retail sales tax exemption for this sale is provided by RCW 82.08.0266. Completion of an exemption certificate is a statutorily imposed condition for obtaining this exemption. Company A has not satisfied the conditions and requirements necessary to grant an exemption under this statute. The exemption provisions under RCW 82.08.0273 for sales to nonresidents of states having less than three percent retail sales tax can not be used for purchases of vessels which require United States Coast Guard ~~((registration or))~~ documentation, or registration in the state of principal use. If the exemption certificate had been properly completed at the time of sale, this sale would have qualified for retail sales tax exemption.

~~((e))~~ (b) Mr. Jones, a California resident, contracts Company B to manufacture a pleasure yacht. Mr. Jones purchases a boat motor from Company Y with instructions that delivery be made to Company B for installation on the yacht.

The yacht is required to be registered with the state of California, which has assumed the registration and numbering function under the Federal Boating Act of 1958. Company B examines Mr. Jones' driver's license to verify Mr. Jones is a nonresident of Washington, and retains the proper exemption certificate at the time of sale. Delivery is made in Washington, and Mr. Jones removes the vessel from Washington waters within forty-five days of delivery.

The sale of the yacht by Company B to Mr. Jones is not subject to the retail sales tax, as the requirements and conditions for exemption have been satisfied. Retail sales tax does, however, apply to the sale of the motor by Company Y to Mr. Jones. The exemption provided by RCW 82.08.0266 does not extend to a separate seller of unattached component parts, even though the parts are installed in the watercraft prior to delivery.

~~((d))~~ (c) Mr. Smith, a resident of California, brings his yacht into Washington ~~((for))~~ with the intention of temporarily using the yacht for personal enjoyment. The yacht experiences mechanical difficulty that requires repair. Extensive repairs and testing require the yacht to remain in Washington waters for ~~((ninety))~~ two hundred seventy days. Mr. Smith obtains the required two-month identification documents issued by the department of licensing that entitle him to use the yacht within Washington for six months in any twelve-month period. Mr. Smith then extends the exemption period by filing a "Nonresident Out-of-State Vessel Repair Affidavit" with the department of revenue prior to end of the initial ~~((sixty day))~~ six-month exemption period. An employee of the repair facility is on board the yacht during all testing, and there is no personal use by Mr. Smith during this period. Upon completion of the repairs and testing, Mr. Smith takes delivery at the repair facility and promptly removes the yacht from Washington waters.

Mr. Smith has not incurred a use tax liability on his yacht. The conditions and requirements exempting the yacht from use tax during the period of repair and testing have been met. However, retail sales tax is due, and must be paid, on all charges for repair parts and labor. The exemption from sales tax for purchases of vessels does not extend to repairs.

WSR 99-04-021

EXPEDITED ADOPTION

DEPARTMENT OF REVENUE

[Filed January 22, 1999, 3:11 p.m.]

Title of Rule: WAC 458-20-226 Landscape and horticultural services.

Purpose: To explain the tax-reporting requirements for persons who provide landscape and horticultural services.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.04.050 and 82.04.290 (as they apply to landscape and horticultural services).

Summary: This rule provides tax-reporting information to persons engaged in landscape and horticultural services. The rule identifies those landscape and horticultural services that are excluded by statute from the definition of retail sale,

and includes examples to show how the state taxes apply to various situations.

Reasons Supporting Proposal: This rule is being revised to reflect the repeal of the selected business services B&O tax rate by chapter 7, Laws of 1997.

Name of Agency Personnel Responsible for Drafting: D. Douglas Titus, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 664-0687; **Implementation:** Claire Hesselholt, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 753-3446; and **Enforcement:** Russell Brubaker, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule provides tax-reporting information to persons engaged in landscape and horticultural services. The rule explains that these services are generally retail activities when performed for consumers. The rule explains that horticultural services provided to farmers, and the pruning, trimming, and removal of trees and brush near electric lines, when performed at the direction of an electric utility, are subject to the service and other activities B&O tax. The selected business services B&O tax was eliminated, and as a result, design services performed by landscape architects are subject to the service and other activities B&O tax.

Proposal Changes the Following Existing Rules: This is an amendment of an existing rule, WAC 458-20-226 (Rule 226) Landscape and horticultural services. This rule is being revised to notify the reader that the selected business services B&O tax was repealed effective July 1, 1998 (chapter 7, Laws of 1997). This rule is being revised to explain that landscape architects performing design services are subject to the service and other activities B&O tax classification effective July 1, 1998.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO D. Douglas Titus, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, AND RECEIVED BY April 3, 1999.

January 22, 1999

Claire Hesselholt, Rules Manager
Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 96-05-080, filed 2/21/96, effective 3/23/96)

WAC 458-20-226 Landscape and horticultural services. (1) **Introduction.** This ((~~section~~)) rule provides tax reporting instructions for persons who provide landscape and horticultural services. ((~~Chapter 39, Laws of 1995 amended RCW 82.04.050 to exclude from a retail sale the pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility. This change became effective July 1, 1995. Landscape maintenance and horticultural services became subject to the retail sales tax effective July 1, 1993, and previously were taxed under the service and other business activities classification. The law change which made landscape maintenance and horticultural services a retail sale~~)) This rule does not apply to silvicultural activities or to horticultural services provided to farmers. Silviculture means the commercial production of timber and includes activities such as growing seed into seedlings, planting, fertilizer and pesticide application, pruning and thinning as provided to timber growers. ((~~These activities are specifically excluded from the scope of this rule.~~)) Silvicultural activities are generally subject to the extracting B&O tax classification or the service and other business activities B&O tax classification. (See WAC 458-20-135 and 458-20-224.)

(2) **Retail landscape and horticultural services.** Landscape and horticultural services which are retail sales include:

(a) Grading, filling, leveling, planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, aerating, applying chemicals, watering, and fertilizing to establish, promote, or control the growth of trees, shrubs, flowers, grass, ground cover and other flora for ornamentation or other nonagricultural purposes.

(b) The sale or rental of landscaping materials and the construction of sprinkling systems, walks, pools, fences, trellises, rockeries, and retaining walls.

(c) Cultivating fruits, flowers, and vegetables for consumers other than farmers.

(d) All tree trimming other than for farmers or persons engaged in silviculture. This includes all trimming for size, shape, aesthetics, removal of diseased branches, and removal of limbs because they are too close to structures. It does not include tree trimming performed for public and private electric utilities or at the direction of electric utilities to keep power lines, distribution lines, or equipment free of tree branches or brush.

(3) **Nonretail landscape and horticultural services.** Landscape and horticultural services which are not retail sales include:

(a) Landscape design services performed by a landscape architect separate from a contract for landscape maintenance.

(b) Planting trees for farmers.

(c) Thinning or planting of trees for persons who are involved in the commercial production of timber. These are silvicultural activities and silvicultural activities are not considered to be horticultural or landscape maintenance activities. (See WAC 458-20-135 and 458-20-209.)

(d) Landscape services performed for municipal corporations or political subdivisions of the state on real property owned by those entities if the real property is used or held for public road purposes. (See WAC 458-20-171.)

(e) Horticultural services, including spraying and fertilizing, performed for farmers for agricultural purposes. See WAC 458-20-209 for examples of horticultural services performed for farmers.

(f) Pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility. The removing and clearing of trees includes the stump removal by grinding, digging, or any other means, if performed by or at the direction of an electric utility. These are retail activities when not performed by or at the direction of an electric utility.

(4) Business and occupation tax. The business and occupation tax applies as follows.

(a) **Retailing.** The gross income from landscape and horticultural services which are retail sales and which are performed for consumers is taxable under the retailing classification.

(b) **Wholesaling.** The gross income from services which are retail sales and which are performed for other contractors for resale is taxable under the wholesaling classification.

(c) **Service.** The gross income from horticultural services provided to farmers is taxable under the service and other activities classification. This tax classification also applies to income received from pruning, tree trimming, removing and clearing of trees and brush near electric lines, if performed by or at the direction of an electric utility. Beginning July 1, 1998, income from services performed by landscape architects is subject to this classification. (See chapter 7, Laws of 1997.) For the period July 1, 1993, through June 30, 1998, landscape architects who performed design services were taxable under the selected business service tax classification.

~~(d) **(Selected business services.** Effective July 1, 1993, landscape architects who perform design services are taxable under the selected business services tax classification. See RCW 82.04.290.~~

~~(e)) **Public road construction.** Persons who perform landscape services for municipal corporations or political subdivisions of the state on real property owned by those entities are taxable under the public road construction B&O tax classification, but only if the real property is used or held for public road purposes.~~

~~((#)) (e) **Government contracting.** This classification applies to persons engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures for the United States, or a city or county housing authority created under chapter 35.82 RCW. This classification would include the construction or maintenance of items such as walls, fences, walks, pools and other structures. This classification does not include the planting of lawns or trees or the cutting of grass or tree trimming performed for these customers. These activities are subject to the retailing classification.~~

~~(5) **Retail sales and use tax.** ((#)) Landscape gardeners and horticulturists, except horticulturists performing services for farmers, must generally collect and report the retail sales tax upon the full contract price when performing landscaping or horticultural services for consumers. For purposes of collecting the local option retail sales tax, the sale takes place where the service is performed. See WAC 458-20-145. The retail sales tax does not apply to charges to the United States for landscape services, including landscape maintenance services, and sellers may take a deduction from the retail sales tax classification in reporting those sales which are taxable under the retailing B&O tax classification.~~

~~((#)) (a) Persons performing a landscaping or horticultural service for a contractor for resale must provide a resale certificate. See WAC 458-20-102.~~

~~((#)) (b) Landscape gardeners and horticulturists must pay the retail sales tax to their vendors when purchasing tools, equipment, and supplies which are not resold, either directly or as a component part of the finished work. They must pay deferred sales or use tax directly to the department upon the value of any such property that was purchased or acquired without payment of Washington retail sales tax.~~

~~((#)) (c) Plants, shrubs, trees, sod, seed, chemicals, fertilizer, peat moss, sprinkler systems, rocks, building materials and any other tangible personal property which becomes a part of the finished work may be purchased for resale, except items used in providing horticultural services for farmers and items used in performing public road construction, government contracting, or services for timber growers.~~

~~((#)) (d) Retail sales tax or use tax is due with respect to items purchased by horticulturists for use in performing services for farmers. (See also WAC 458-20-209.)~~

~~((#)) (e) Retail sales tax or use tax is due with respect to items purchased for use in performing services for timber growers or which are taxable as either public road construction or government contracting. This includes items such as sod, seed, trees, building materials, fertilizers, spray materials, etc.~~

~~((#)) (f) The retail sales tax does not apply to the charge made by persons performing tree trimming near electric transmission or distribution lines, but only if the work is performed at the direction of an electric utility. Persons performing these services must pay retail sales or use tax on all materials, supplies, tools, and equipment used in performing the service.~~

~~(6) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all ((# the)) facts and circumstances.~~

~~(a) John Doe, a landscaper, was hired by a city to maintain the landscaping around the buildings at the city's municipal golf courses. He must collect and report the retail sales tax and pay retailing B&O tax on the full contract amount.~~

~~(b) John Doe purchased several plants, some fertilizer, and insect spray to use in landscaping the golf course. He also purchased some solvent and mineral oil to clean and maintain some of his landscaping tools. His purchases of the plants, fertilizer and insect spray are purchases for resale. He must~~

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pay retail sales tax to his vendors on his purchases of the solvent and mineral oil.

(c) Landscaping company provides complete landscaping services including landscape design by a licensed landscape architect, installation, and maintenance. Landscaping charged Jane Smith two hundred dollars for a landscaping plan for her new home. She planned to purchase the plants and do the landscaping work herself. Landscaping must report B&O tax on the charge for the design service at the ~~(rate for selected business services)~~ service and other activities classification rate.

(d) Landscaping company entered into a contract to landscape the yard for a client's new home. The company must collect and report retail sales tax and pay retailing B&O on the full contract amount, even though part of Landscaping's services included drawing a landscaping plan.

(e) Landscaping company entered into a two-phase contract with a county. Phase one required the company to plant trees and shrubs and put in a sprinkling system as part of a public road project. The sprinkler system is located in the public road right of way. The contract provided Landscaping would receive five hundred thousand dollars for phase one of the project. Phase two provided that Landscaping would maintain the trees and shrubs for a period of five years. The contract provided for payments of four thousand dollars per month plus costs for fertilizer and spray for maintaining the planted strips.

(i) Phase one is part of public road construction and Landscaping is taxable under the public road construction classification upon the five hundred thousand dollars received for phase one. The company must pay sales tax when purchasing the trees and shrubs and materials for the sprinkling system for use in phase one of the project. See WAC 458-20-171 for the tax liability for public road construction.

(ii) Phase two for the maintenance of the completed project is also public road construction. This is not a retail sale because the work is performed for a municipal corporation or political subdivision of the state on land owned by that entity and which is being used for public road purposes. See RCW 82.04.190.

Landscaping will owe B&O tax under the public road construction classification and must pay retail sales or use tax on any items used in performing this work, including purchases of fertilizers, chemicals and other materials.

(f) John Doe operates a tree trimming business and has a contract with a public utility district (PUD) to trim trees along the PUD's power lines. Some of these trees are on private property with the PUD obtaining the permission of the owners to trim the trees. Some trees are also located on land for which the PUD has an easement, including along public road right of ways. This tree trimming is not a retail sale, but taxable under the service and other ~~((business))~~ activities classification. This includes trimming performed along the road right of way. The property on the road right of way is not owned by the PUD for whom the work is being performed. The easement is not for use as a public road and as such the tree trimming is not public road construction.

(g) John Doe provides a tree trimming service to his residential customers. The tree trimming is performed at the

direction of the residential customer to remove diseased limbs, limbs too close to the house, limbs which are a safety hazard because of their proximity to power lines, and limbs which are objectionable to the desired shape of the tree. All of this tree trimming is a retail activity, regardless of the specific reason for cutting the limbs.

WSR 99-04-078

EXPEDITED ADOPTION

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed February 2, 1999, 2:09 p.m.]

Title of Rule: Chapter 296-45 WAC, Safety standards for electrical workers.

Purpose: Chapter 296-45 WAC, Safety standards for electrical workers, proposed amendments relating to electrical workers incorporate federal provisions in 29 CFR 1910.269. These changes are a result of correspondence from OSHA indicating that some of the current WISHA requirements are "not at least as effective as" the federal rules. In addition, based upon stakeholder input, WISHA proposes several housekeeping changes and clarifications. No additional compliance requirements are added.

Amended section WAC 296-45-015 Scope and application, proposal makes a WISHA change deleting subsection (2)(a) for clarification purposes.

Amended section WAC 296-45-045 NESC applicable, proposal makes a WISHA change correcting two typographical errors in subsections (1) and (2).

Amended section WAC 296-45-17550 Servicing contractors, proposal changes the previously incorrect title to "Group lockout/tagout" to be like the federal rule in 29 CFR 1910.269 (d)(8)(ii)(A) for clarification purposes.

Amended section WAC 296-45-215 Underground electrical installations, proposal adds a notation to require testing for flammable gases and vapors, in addition to testing for oxygen or providing forced ventilation prior to entry into underground electrical installations. These changes are made to be like 29 CFR 1910.269 (e)(9) and (10) also to mirror current WISHA requirements for testing identified in WAC 296-45-205(10).

Amended section WAC 296-45-215 Underground electrical installations, proposal makes a WISHA change to subsection (23) to correct WAC references from WAC 296-45-65023 to WAC 296-45-335 on clearances as well as WAC 296-45-65026 to WAC 296-45-345 and/or 296-45-355 on grounding.

Amended section WAC 296-45-325 Working on or near exposed energized parts, proposal changes subsection (4)(c) Note 2(1) to be as effective as the federal rule in 29 CFR 1910.269 (1)(2)(I) which includes the use of insulating sleeves when appropriate.

Also subsection (16) Table 1: AC Live Work Minimum Approach Distance, Row 4 under voltage in kilovolts phase to phase* information has been corrected from 0.0751 to the correct distance of 0.751.

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Amended section WAC 296-45-455 Line-clearance tree-trimming operations, proposal changes subsection (7) to be like federal rule in 29 CFR 1910.67 (c)(2)(iii), which clarifies tying off when getting in and out of a basket.

Amended section WAC 296-45-901 Appendix A—Non-mandatory, proposal makes a WISHA change to Appendix A—Table 4, DC Live Work Minimum Approach Distance with Transient Overvoltage Factor, row 1, under the 750 kilovolts, to correct distance to employee in feet, conductor to ground from 10'11" to 11'10" due to a typographical error.

Statutory Authority for Adoption: RCW 49.17.040.

Statute Being Implemented: RCW 49.17.010, [49.17].050, [49.17].060.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael A. Silverstein, Tumwater, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

Rule is necessary because of federal law, 29 CFR 1910.269.

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

Proposal does not change existing rules.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Selwyn Walters, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY April 5, 1999.

February 2, 1999

Gary Moore

Director

AMENDATORY SECTION (Amending WSR 98-07-009, filed 3/6/98, effective 5/6/98)

WAC 296-45-015 Scope and application. (1) This chapter covers the operation and maintenance of electric power generation, control, transformation, transmission, and distribution lines and equipment. These provisions apply to:

(a) Power generation, transmission, and distribution installations, including related equipment for the purpose of communication or metering, which are accessible only to qualified employees;

Note: The types of installations covered by this chapter include the generation, transmission, and distribution installations of electric utilities, as well as equivalent installations of industrial establishments. Trolley maintenance, jumpering, and bypass is also covered by this chapter. Supplementary

electric generating equipment that is used to supply a workplace for emergency, standby, or similar purposes only is covered under Part L of chapter 296-24 WAC.

(b) Other installations at an electric power generating station, as follows:

(i) Fuel and ash handling and processing installations, such as coal conveyors;

(ii) Water and steam installations, such as penstocks, pipelines, and tanks, providing a source of energy for electric generators; and

(iii) Chlorine and hydrogen systems.

(c) Test sites where electrical testing involving temporary measurements associated with electric power generation, transmission, and distribution is performed in laboratories, in the field, in substations, and on lines, as opposed to metering, relaying, and routine line work;

(d) Work on or directly associated with the installations covered in subsections (1)(a) through (c) of this section; and

(e) Line-clearance tree-trimming operations, as follows:

(i) This chapter except WAC 296-45-455, applies to line-clearance tree-trimming operations performed by qualified employees (those who are knowledgeable in the construction and operation of electric power generation, transmission, or distribution equipment involved, along with the associated hazards).

(ii) WAC 296-45-065, 296-45-125, 296-45-135, 296-45-255, 296-45-315, 296-45-375, and 296-45-455 through 296-45-45530 apply to line-clearance tree-trimming operations performed by line-clearance tree trimmers who are not qualified employees.

(2) Notwithstanding subsection (1) of this section, this chapter does not apply(:

(a) To construction work as defined in chapter 296-155 WAC; or

(b)) to electrical installations, electrical safety-related work practices, or electrical maintenance considerations covered by Part L of chapter 296-24 WAC.

Note 1: Work practices conforming to WAC 296-24-970 through 296-24-985 are considered as complying with the electrical safety-related work practice requirements of this chapter, provided the work is being performed on a generation or distribution installation meeting WAC 296-24-95601 through 296-24-95699. This chapter also applies to work by qualified persons directly on or associated with installations of electric power generation, transmission, and distribution lines or equipment, regardless of compliance with WAC 296-24-970 through 296-24-985.

Note 2: Work practices performed by qualified persons and conforming to this chapter are considered as complying with WAC 296-24-95601 through 296-24-95699.

(3) This section applies in addition to all other applicable safety and health standards administered by the department. Specific references in this section to other standards are provided for emphasis only.

(4) Operation, conditions, work methods and other work related situations or activities not specifically covered by this chapter are subject to the rules and regulations of chapter 296-24 WAC, General safety and health standards; chapter 296-62 WAC, General occupational health standards; chapter 296-155 WAC, Safety standards for construction work; and, insofar as applicable to employee safety and health, chapter 19.29 RCW. Additionally, operations, conditions, work

methods and other work related situations or activities may be subject to additional rules and regulations depending upon the nature of the work being performed.

(5) These rules shall not apply to the use of existing electrical installations during their lifetime, provided they are maintained in good condition and in accordance with the applicable safety factor requirements and the rules in effect at the time they were installed, and provided that reconstruction shall conform to the rules as herein provided.

(6) Any rule, regulation or standard contained within this chapter, if subject to interpretation, shall be interpreted so as to achieve employee safety, which is the ultimate purpose of this chapter.

(7) Should a rule or standard contained within this chapter conflict, in any manner, with a standard or rule contained within any other chapter of Title 296 WAC the standard or rule contained herein shall apply so long as the work being done is power generation, transmission, and distribution installations, including related equipment for the purpose of communication or metering, which are accessible only to qualified employees. If there are rules within this chapter that conflict, the rule that provides the greatest employee safety will apply.

(8) Neither the promulgation of these rules, nor anything contained in these rules shall be construed as affecting the relative status or civil rights or liabilities between employers and their employees and/or the employees of others and/or the public generally; nor shall the use herein of the words "duty" and "responsibility" or either, import or imply liability other than provided for in the industrial insurance and safety laws of the state of Washington, to any person for injuries due to negligence predicated upon failure to perform or discharge any such "duty" or "responsibility," but failure on the part of the employees, leadworker, or employer to comply with any compulsory rule may be cause for the department of labor and industries to take action in accordance with the industrial insurance and safety laws.

(9) "Shall" and "must" as used in this chapter make the provisions mandatory. "Should," "may," or "it is recommended" are used to indicate the provisions are not mandatory but are recommended.

(10) If any section, subsection, phrase, or provisions of this chapter or part thereof should be held invalid by any court for any reason, such invalidity shall not in any way affect the validity of the remainder of this chapter, unless such decision renders the remainder of the provision unintelligible, or changes the meaning of such other provision or provisions.

(11) When the language used in this chapter indicates that it is the responsibility, duty, or obligation of the leadworker or other employee, it shall also be the employer's responsibility, obligation, and duty.

Whenever this chapter refers to the provisions of another safety and health standard or statute affecting safety and health, such reference refers to the statute or code in effect at the time the work is being performed.

AMENDATORY SECTION (Amending WSR 98-07-009, filed 3/6/98, effective 5/6/98)

WAC 296-45-045 NESC applicable. (1) All electric utilities and entities operating transmission and distribution facilities within the state of Washington must design, construct, operate, and maintain their lines and equipment according to the requirements of the 1997 National (~~Electric~~) Electrical Safety Code (NESC) (ANSI-C2), (~~sections~~) parts (1), (2), and (3).

Note: The department has copies of the NESC available for review at each service location across the state. To purchase a copy, write to:
The Institute of Electrical and Electronics Engineers, Inc.
345 East 47th Street
New York, NY 10017-2394

(2) The employer must ensure that climbing space is provided on all poles and structures. The climbing space must meet the requirements of the 1997 National (~~Electric~~) Electrical Safety Code (NESC) (ANSI-C2), except that Rule 236H does not apply.

AMENDATORY SECTION (Amending WSR 98-07-009, filed 3/6/98, effective 5/6/98)

WAC 296-45-17550 (~~Service contractors~~) Group lockout/tagout. When servicing or maintenance is performed by a crew, craft, department, or other group, they shall use a procedure which affords the employees a level of protection equivalent to that provided by the implementation of a personal lockout or tagout device. Group lockout or tagout devices shall be used in accordance with the procedures required by the following specific requirements:

(1) Primary responsibility shall be vested in an authorized employee for a set number of employees working under the protection of a group lockout or tagout device (such as an operations lock);

(2) Provision shall be made for the authorized employee to ascertain the exposure status of all individual group members with regard to the lockout or tagout of the machine or equipment;

(3) When more than one crew, craft, department, or other group is involved, assignment of overall job-associated lockout or tagout control responsibility shall be given to an authorized employee designated to coordinate affected work forces and ensure continuity of protection; and

(4) Each authorized employee shall affix a personal lockout or tagout device to the group lockout device, group lockbox, or comparable mechanism when he or she begins work and shall remove those devices when he or she stops working on the machine or equipment being serviced or maintained.

AMENDATORY SECTION (Amending WSR 98-07-009, filed 3/6/98, effective 5/6/98)

WAC 296-45-215 Underground electrical installations. This section provides additional requirements for work on underground electrical installations.

(1) Protective barriers, or approved guards and warning signs must be erected before removing manhole covers or

making excavations in places accessible to vehicular or pedestrian traffic.

(2) Whenever an opening is made in the street, it shall be properly guarded or covered until same is closed and whenever an obstruction is left in the roadway after dark, it shall be marked with approved lights, flares or similar devices.

(3) Access. A ladder or other climbing device shall be used to enter and exit a manhole or subsurface vault exceeding 4 feet (122 cm) in depth. No employee may climb into or out of a manhole or vault by stepping on cables or hangers.

(4) When work is to be performed in a manhole or unvented vault:

(a) No entry shall be permitted unless ~~((forced ventilation is provided or))~~ the atmosphere is found to be safe by testing for ~~((oxygen deficiency and))~~ the presence of explosive or potentially hazardous gases or fumes.

(b) No entry shall be permitted unless the atmosphere has been found safe by testing for oxygen deficiency or forced ventilation is provided.

(c) When unsafe conditions are detected, by testing or other means, the work area shall be ventilated and otherwise made safe before entry.

~~((e))~~ (d) Provisions shall be made for a continuous supply of air as provided for in Part L, chapter 296-62 WAC.

~~((d))~~ (e) When forced ventilation is not used a method of monitoring said manhole or vault so as to prevent the occurrence of oxygen deficiency due to work being performed in said manhole or vault, and to detect the presence of any explosive gases or fumes which may occur while the employees are working in said manhole or vault.

(5) When open flames are used or smoking is permitted in manholes, adequate mechanical forced air ventilation shall be used.

(6) Before using open flames in a manhole or excavation in an area where combustible gases or liquids may be present, such as near a gasoline service station, the atmosphere of the manhole or excavation shall be tested and found safe or cleared of the combustible gases or liquids prior to the entry.

(7) When work is to be performed in manholes containing any wires or appliances carrying electrical current, they shall be in a sanitary condition.

(8) Care shall be taken to prevent the possibility of vehicles or pedestrians coming in contact with the wires and equipment.

(9) Lowering equipment into manholes. Equipment used to lower materials and tools into manholes or vaults shall be capable of supporting the weight to be lowered and shall be checked for defects before use. Before tools or materials are lowered into the opening for a manhole or vault, each employee working in the manhole or vault shall be clear of the area directly under the opening.

(10) Materials shall not be thrown into or out of manholes but shall be placed in the proper receptacle and hoisted in and out by means of a rope.

(11) Tools and materials shall not be left on the ground around or near the manhole opening where they might be pushed or otherwise fall into the hole.

(12) Attendants for manholes.

(a) An attendant shall be kept at the surface when there is any hazard to the employees in the manhole and the attendant

should not leave the manhole unwatched until such time as all employees are out and the cover has been replaced.

(b) While work is being performed in a manhole containing energized electric equipment, an employee with first aid and CPR training meeting WAC 296-45-125(1) shall be available on the surface in the immediate vicinity to render emergency assistance.

Note 1: An attendant may also be required under WAC 296-45-205(7). One person may serve to fulfill both requirements. However, attendants required under WAC 296-45-205(7) are not permitted to enter the manhole.

Note 2: Employees entering manholes containing unguarded, uninsulated energized lines or parts of electric equipment operating at 50 volts or more are required to be qualified under WAC 296-45-325 (1) through (4).

(c) No work shall be permitted to be done in any manhole or subway on any energized wire, cable or appliance carrying more than 300 volts of electricity by less than two qualified persons who shall at all times, while performing such work, be in the same manhole or subway in which work is being done. This rule shall not apply to work on telephone, telegraph or signal wires or cables.

(d) For the purpose of inspection, housekeeping, taking readings, or similar work, an employee working alone may enter, for brief periods of time, a manhole where energized cables or equipment are in service, if the employer can demonstrate that the employee will be protected from all electrical hazards.

(e) Reliable communications, through two-way radios or other equivalent means, shall be maintained among all employees involved in the job.

(13) Cable in manholes or underground vaults shall be accessible to employees and a clear working space shall be maintained at all times; and/or approved protective guards, barriers, etc., when installed shall be considered as providing adequate working clearance for cables over 5 k.v. If a manhole and/or underground vault is determined to have an electrical or structural hazard, no work shall be done in the manhole and/or vault until the unsafe condition is corrected or de-energized.

(14) No work shall be performed on cables or equipment unless they have been properly identified by an approved method.

(15) Duct rods. If duct rods are used, they shall be installed in the direction presenting the least hazard to employees. An employee shall be stationed at the far end of the duct line being rodded to ensure that the required minimum approach distances are maintained.

(16) Multiple cables. When multiple cables are present in a work area, the cable to be worked shall be identified by electrical means, unless its identity is obvious by reason of distinctive appearance or location or by other readily apparent means of identification. Cables other than the one being worked shall be protected from damage.

(17) Before cutting into a high voltage cable or opening a high voltage splice, the cable shall be de-energized then clearance obtained, tested and then grounded in an approved manner. The cable to be worked on shall be identified by tags or equivalent means.

(18) Moving cables. Energized cables that are to be moved shall be inspected for defects.

(19) Insulated platforms or other protective devices shall be provided when work is to be done on energized wires or equipment in manholes.

(20) Furnaces shall always be placed in a secure, level position on the downhill side of the manhole to avoid spillage of hot metals or compounds into the manhole.

(21) Pulling underground cable. When pulling cable(s) all employees shall be made aware of the hazard of being caught in the sheaves, lashings or winch gears. All employees shall stand clear of the pulling line when the pull is begun or when the line is under tension. This rule applies to all work performed by means of a winch.

(22) Fishing conduit or ducts. When fishing conduit or ducts, it shall first be determined that the fish tape or wires will not contact any energized line or equipment.

(23) WAC ((296-45-65023)) 296-45-335 on clearances ((and WAC 296-45-65026 on grounding)) shall be complied with. Also WAC 296-45-345 and/or WAC 296-45-355 on grounding shall be complied with.

(24) Defective cables. Where a cable in a manhole has one or more abnormalities that could lead to or be an indication of an impending fault, the defective cable shall be de-energized before any employee may work in the manhole, except when service load conditions and a lack of feasible alternatives require that the cable remain energized. In that case, employees may enter the manhole provided they are protected from the possible effects of a failure by shields or other devices that are capable of containing the adverse effects of a fault in the joint.

Note: Abnormalities such as oil or compound leaking from cables or joints, broken cable sheaths or joint sleeves, hot localized surface temperatures of cables or joints, or joints that are swollen beyond normal tolerance are presumed to lead to or be an indication of an impending fault.

(25) Sheath continuity. When work is performed on buried cable or on cable in manholes, metallic sheath continuity shall be maintained by bonding across the opening (or by equivalent means), or the cable sheath shall be treated as energized.

AMENDATORY SECTION (Amending WSR 98-07-009, filed 3/6/98, effective 5/6/98)

WAC 296-45-325 Working on or near exposed energized parts. This section applies to work on exposed live parts, or near enough to them, to expose the employee to any hazard they present.

(1) General. Only qualified employees may work on or with exposed energized lines or parts of equipment. Only qualified employees may work in areas containing unguarded, uninsulated energized lines or parts of equipment operating at 50 volts or more. Electric lines and equipment shall be considered and treated as energized unless the provisions of WAC 296-45-175 through 296-45-17565 or 296-45-335 have been followed.

(2) Except as provided in subsection (3) of this section, at least two qualified employees shall be present while the following types of work are being performed:

(a) Installation, removal, or repair of lines that are energized at more than 600 volts;

(b) Installation, removal, or repair of de-energized lines if an employee is exposed to contact with other parts energized at more than 600 volts;

(c) Installation, removal, or repair of equipment, such as transformers, capacitors, and regulators, if an employee is exposed to contact with parts energized at more than 600 volts;

(d) Work involving the use of mechanical equipment, other than insulated aerial lifts, near parts energized at more than 600 volts; and

(e) Other work that exposes an employee to electrical hazards greater than or equal to those posed by operations that are specifically listed in subsection (2)(a) through (e) of this section.

Note 1: One employee shall serve principally as a standby person who shall be so located that they may physically reach the other employee in the event of an accident either with their hand or with a hot stick. The stand-by shall be so positioned as to be able to observe the other employee, their bodily movements, and verbally warn of any impending dangers. In no case when working in pairs shall employees work simultaneously on energized wires or parts of different phases or polarity;

Note 2: In cases of necessity, the stand-by person may temporarily assist the other employee provided that they both work on wires or parts of the same phase or polarity. Both employees shall so position themselves so that the presence of the second person does not increase the hazard.

(3) The provisions of WAC 296-45-325(2) do not apply in the following circumstances:

(a) When re-fusing circuits or equipment with a hot stick.

(b) When operating switches by means of operating handle or switch sticks.

(c) When installing or removing a hot line clamp connection with an approved hot stick on single phase line or apparatus, providing that the connection or disconnection does not interrupt or pick up a load.

(d) When installing or removing by hot stick simple load metering devices provided the connection does not interrupt or pickup load.

(e) Emergency repairs to the extent necessary to safeguard the general public.

(4) "Minimum approach distances." The employer shall ensure that no employee approaches or takes any conductive object closer to exposed energized parts than set forth in Table 1 through Table 4, unless:

The employee is insulated from the energized part (insulating gloves or insulating gloves and sleeves worn in accordance with subsection (7) of this section are considered insulation of the employee only with regard to the energized part upon which work is being performed); or

The energized part is insulated from the employee and from any other conductive object at a different potential.

Note 1: WAC 296-45-475 (5)(a) and 296-45-48525(1) contain requirements for the guarding and isolation of live parts. Parts of electric circuits that meet these two provisions are not considered as "exposed" unless a guard is removed or an employee enters the space intended to provide isolation from the live parts.

Note 2: When an employee is required to work on or within reach of any unprotected conductors that are or may become energized at more than 50 volts and less than 600 volts between phases, they shall take the following precautions:

- 1: They shall wear approved (~~rubber gloves~~) insulating gloves or insulating gloves and sleeves during the time they are working on such conductor, or
- 2: They shall cover, with approved devices, any adjacent unprotected conductor that could be touched by any part of their body, and use insulated tools.
- 3: Cables which are properly insulated for the voltages to which they are energized, shall be considered as an effective barrier to protect the employees and Table 1 need not apply.

(5) Initial determination.

(a) Before any work is performed, the location of energized lines and their condition, the location and condition of energized equipment, the condition of the poles, the location of circuits and equipment including power communication lines, CATV and fire alarm circuits, shall be determined as shall any other particular hazard of a particular work site.

(b) No work shall be performed on energized lines or parts until the voltage of such equipment and lines is determined.

(6) Type of insulation. If the employee is to be insulated from energized parts by the use of insulating gloves (under subsection (4)(a) of this section), insulating sleeves shall also be used. However, insulating sleeves need not be used under the following conditions:

(a) If exposed energized parts on which work is not being performed are insulated from the employee; and

(b) If such insulation is placed from a position not exposing the employee's upper arm to contact with other energized parts.

(7) Working position. The employer shall ensure that each employee, to the extent that other safety-related conditions at the worksite permit, works in a position from which a slip or shock will not bring the employee's body into contact with exposed, uninsulated parts energized at a potential different from the employee.

(8) Making connections. The employer shall ensure that connections are made as follows:

(a) In connecting de-energized equipment or lines to an energized circuit by means of a conducting wire or device, an employee shall first attach the wire to the de-energized part;

(b) When disconnecting equipment or lines from an energized circuit by means of a conducting wire or device, an employee shall remove the source end first; and

(c) When lines or equipment are connected to or disconnected from energized circuits, loose conductors shall be kept away from exposed energized parts.

(9) Rubber gloves can only be used on 5,000 volts or less between phases.

(10) It shall not be permissible to consider one part of a high voltage switch or disconnect as de-energized for the purpose of doing work on it if the remainder of the switch or disconnect remains energized unless approved barriers are erected which will prevent employees who are doing the work on such equipment from coming in direct contact with the energized parts.

(11) Conductor support tools such as link sticks, strain carriers, and insulator cradles may be used: *Provided*, That the clear insulation is at least as long as the insulator string or the minimum distance specified in Table 1 for the operating voltage.

(12) Apparel.

(a) When work is performed within reaching distance of exposed energized parts of equipment, the employer shall ensure that each employee removes or renders nonconductive all exposed conductive articles, such as key or watch chains, rings, or wrist watches or bands, unless such articles do not increase the hazards associated with contact with the energized parts.

(b) The employer shall train each employee who is exposed to the hazards of flames or electric arcs in the hazards involved.

(c) The employer shall ensure that each employee who is exposed to the hazards of flames or electric arcs does not wear clothing that, when exposed to flames or electric arcs, could increase the extent of injury that would be sustained by the employee.

Note: Clothing made from the following types of fabrics, either alone or in blends, is prohibited by this subsection, unless the employer can demonstrate that the fabric has been treated to withstand the conditions that may be encountered or that the clothing is worn in such a manner as to eliminate the hazard involved: Acetate, nylon, polyester, rayon.

(d) Workers shall wear clothing appropriate to the season and the kind of work being performed. Shirts or jumpers must have full length sleeves that are rolled down. Protective hard hats and eye protection shall be worn when working on or near live parts or while climbing poles.

(13) Fuse handling. When fuses must be installed or removed with one or both terminals energized at more than 300 volts or with exposed parts energized at more than 50 volts, the employer shall ensure that tools or gloves rated for the voltage are used. When expulsion-type fuses are installed with one or both terminals energized at more than 300 volts, the employer shall ensure that each employee wears eye protection meeting the requirements of WAC 296-45-25505(1), uses a tool rated for the voltage, and is clear of the exhaust path of the fuse barrel.

(14) Covered (noninsulated) conductors. The requirements of this section which pertain to the hazards of exposed live parts also apply when work is performed in the proximity of covered (noninsulated) wires.

(15) Noncurrent-carrying metal parts. Noncurrent-carrying metal parts of equipment or devices, such as transformer cases and circuit breaker housings, shall be treated as energized at the highest voltage to which they are exposed, unless the employer inspects the installation and determines that these parts are grounded before work is performed.

(16) Opening circuits under load. Devices used to open circuits under load conditions shall be designed to interrupt the current involved.

Table 1: AC Live Work Minimum Approach Distance

Voltage in kilovolts phase to phase*	Distance to employee		Phase to Phase	
	Phase to ground (m)	(ft-in)	(m)	(ft-in)
0 to 0.050	not specified		not specified	
0.051 to 0.300	avoid contact		avoid contact	
0.301 to 0.750	0.31	1-0	0.31	1-0
((0.0751 to 15)) 0.751 to 15	0.65	2-2	0.67	2-3
15.1 to 36.0	0.77	2-7	0.86	2-10
36.1 to 46.0	0.84	2-9	0.96	3-2
46.1 to 72.5	1.00**	3-3**	1.20	3-11
72.6 to 121	0.95**	3-2**	1.29	4-3
138 to 145	1.09	3-7	1.50	4-11
161 to 169	1.22	4-0	1.71	5-8
230 to 242	1.59	5-3	2.27	7-6
345 to 362	2.59	8-6	3.80	12-6
500 to 550	3.42	11-3	5.50	18-1
765 to 800	4.53	14-11	7.91	26-0

*For single-phase systems, use the highest voltage available.

For single-phase lines off three phase systems, use the phase-to-phase voltage of the system.

**The 46.1 to 72.5 kV phase-to-ground 3-3 distance contains a 1-3 electrical component and a 2-0 inadvertent movement component while the 72.6 to 121 kV phase-to-ground 3-2 distance contains a 2-2 electrical component and a 1-0 inadvertent movement component.

- Note 1: These distances take into consideration the highest switching surge an employee will be exposed to on any system with air as the insulating medium and the maximum voltages shown.
- Note 2: The clear live-line tool distance shall equal or exceed the values for the indicated voltage ranges.
- Note 3: See Appendix B to this section for information on how the minimum approach distances listed in the tables were derived.

AMENDATORY SECTION (Amending WSR 98-07-009, filed 3/6/98, effective 5/6/98)

WAC 296-45-455 Line-clearance tree-trimming operations. This section provides additional requirements for line-clearance tree-trimming operations and for equipment used in these operations.

This section does not apply to qualified employees.

(1) Before an employee climbs, enters, or works around any tree, a determination shall be made of the nominal voltage of electric power lines posing a hazard to employees. However, a determination of the maximum nominal voltage to which an employee will be exposed may be made instead, if all lines are considered as energized at this maximum voltage.

(2) There shall be a second line-clearance tree trimmer within normal (that is, unassisted) voice communication under any of the following conditions:

(a) If a line-clearance tree trimmer is to approach more closely than 10 feet (305 cm) any conductor or electrical apparatus energized at more than 600 volts; or

(b) If branches or limbs being removed are closer to lines energized at more than 600 volts than the distances listed in Table 1, Table 4, and Table 5; or

(c) If roping is necessary to remove branches or limbs from such conductors or apparatus.

(3) Line-clearance tree trimmers shall maintain the minimum approach distances from energized conductors given in Table 1, Table 4, and Table 5.

(4) Branches that are contacting exposed energized conductors or equipment or that are within the distances specified in Table 1, Table 4, and Table 5 may be removed only through the use of insulating equipment.

Note: A tool constructed of a material that the employer can demonstrate has insulating qualities meeting WAC 296-45-305(1) are considered as insulated under this section if the tool is clean and dry.

(5) Ladders, platforms, and aerial devices may not be brought closer to an energized part than the distances listed in Table 1, Table 4, and Table 5.

(6) Line-clearance tree-trimming work may not be performed when adverse weather conditions make the work hazardous in spite of the work practices required by this section. Each employee performing line-clearance tree-trimming work in the aftermath of a storm or under similar emergency conditions shall be trained in the special hazards related to this type of work.

Note: Thunderstorms in the immediate vicinity, high winds, snow storms, and ice storms are examples of adverse weather conditions that are presumed to make line-clearance tree-trimming work too hazardous to perform safely.

(7) A tree trimmer may climb out of a basket into a tree or from a tree back into the basket so long as he is properly tied into the tree during the entire maneuver and the employer can demonstrate that this is the safest way to perform the work.

EXPEDITED ADOPTION

AMENDATORY SECTION (Amending WSR 98-07-009, filed 3/6/98, effective 5/6/98)

WAC 296-45-901 Appendix A—Nonmandatory.

Appendix A—Tables

TABLE 2
AC Live Work Minimum Approach Distance With Transient Overvoltage Factor

Maximum anticipated per-unit transient overvoltage	Distance to employee in feet-inches, phase to ground						
	Air(±) and clear live-line tool						
	Maximum phase-to-phase voltage in kilovolts						
	121	145	169	242	362	550	800
1.5						6-0	9-8
1.6						6-6	10-8
1.7						7-0	11-8
1.8						7-7	12-8
1.9						8-1	13-9
2.0	2-5	2-9	3-0	3-10	5-3	8-9	14-11
2.1	2-6	2-10	3-2	4-0	5-5	9-4	
2.2	2-7	2-11	3-3	4-1	5-9	9-11	
2.3	2-8	3-0	3-4	4-3	6-1	10-6	
2.4	2-9	3-1	3-5	4-5	6-4	11-3	
2.5	2-9	3-2	3-6	4-6	6-8		
2.6	2-10	3-3	3-8	4-8	7-1		
2.7	2-11	3-4	3-9	4-10	7-5		
2.8	3-0	3-5	3-10	4-11	7-9		
2.9	3-1	3-6	3-11	5-1	8-2		
3.0	3-2	3-7	4-0	5-3	8-6		

Note 1: The distances specified in this table may be applied only where the maximum anticipated per-unit transient overvoltage has been determined by engineering analysis and has been supplied by the employer. Table 1 applies otherwise.

Note 2: The distances specified in this table are the air, and live-line tool distances.

TABLE 3
AC Live Work Minimum Approach Distance With Transient Overvoltage Factor

Maximum anticipated per-unit transient overvoltage	Distance to employee in feet-inches, phase to ground						
	Air(±) and clear live-line tool						
	Maximum phase-to-phase voltage in kilovolts						
	121	145	169	242	362	550	800
1.5						7-4	12-1
1.6						8-9	14-6
1.7						10-2	17-2
1.8						11-7	19-11
1.9						13-2	22-11
2.0	3-7	4-1	4-8	6-1	8-7	14-10	26-0
2.1	3-7	4-2	4-9	6-3	8-10	15-7	
2.2	3-8	4-3	4-10	6-4	9-2	16-4	
2.3	3-9	4-4	4-11	6-6	9-6	17-2	
2.4	3-10	4-5	5-0	6-7	9-11	18-1	
2.5	3-11	4-6	5-2	6-9	10-4		
2.6	4-0	4-7	5-3	6-11	10-9		
2.7	4-1	4-8	5-4	7-0	11-2		

TABLE 3
AC Live Work Minimum Approach Distance With Transient Overvoltage Factor

Maximum anticipated per-unit transient overvoltage	Distance to employee in feet-inches, phase to ground					
	Air(±) and clear live-line tool					
	Maximum phase-to-phase voltage in kilovolts					
	4-1	4-9	5-5	7-2	11-7	
2.8	4-1	4-9	5-5	7-2	11-7	
2.9	4-2	4-10	5-6	7-4	12-1	
3.0	4-3	4-11	5-8	7-6	12-6	

Note 1: The distances specified in this table may be applied only where the maximum anticipated per-unit transient overvoltage has been determined by engineering analysis and has been supplied by the employer. Table 1 applies otherwise.

Note 2: The distances specified in this table are the air, and live-line tool distances.

TABLE 4
DC Live Work Minimum Approach Distance With Transient Overvoltage Factor

Maximum anticipated per-unit transient overvoltage	Distance to employee in feet-inches, conductor to ground				
	Air(±) and clear live-line tool				
	Maximum phase-to-phase voltage in kilovolts				
	250	400	500	600	750
1.5 or lower	3-8	5-3	6-9	8-7	((10-11)) 11-10
1.6	3-10	5-7	7-4	9-5	13-1
1.7	4-1	6-0	7-11	10-3	14-4
1.8	4-3	6-5	8-7	11-2	15-9

Note 1: The distances specified in this table may be applied only where the maximum anticipated per-unit transient overvoltage has been determined by engineering analysis and has been supplied by the employer. However, if the transient overvoltage factor is not known, a factor of 1.8 shall be assumed.

Note 2: The distances specified in this table are the air, and live-line tool distances.

TABLE 5
Altitude Correction Factor

Altitude	Correction factor		
	(m)	(ft)	
900		3000	1.00
1200		4000	1.02
1500		5000	1.05
1800		6000	1.08
2100		7000	1.11
2400		8000	1.14
2700		9000	1.17
3000		10,000	1.20
3600		12,000	1.25
4200		14,000	1.30
4800		16,000	1.35
5400		18,000	1.39
6000		20,000	1.44

Note: If the work is performed at elevations greater than 3000 ft (900 m) above mean sea level, the minimum approach distance shall be determined by multiplying the distances in Table 1 through Table 4 by the correction factor corresponding to the altitude at which work is performed.

EXPEDITED ADOPTION

WSR 99-04-097**EXPEDITED ADOPTION****DEPARTMENT OF ECOLOGY**

[Order 98-27—Filed February 3, 1999, 9:12 a.m.]

Title of Rule: Chapter 173-400 WAC, General regulations for air pollution sources.

Purpose: This rule amendment will correct typographical errors, clarify existing rule language, and adopt federal requirements.

Other Identifying Information: WAC 173-400-030, 173-400-040, 173-400-060, 173-400-070, 173-400-075, 173-400-104, and 173-400-115.

Statutory Authority for Adoption: RCW 70.94.331, 70.94.510.

Statute Being Implemented: Chapter 70.94 RCW.

Summary: This rule change corrects and clarifies existing rule language in chapter 173-400 WAC. Adoption of federal national emission standards for hazardous air pollutants (NESHAPs) and standards of performance for new sources (NSPS) will keep Washington state in compliance with federal law.

Reasons Supporting Proposal: The changes will aid readability and increase usability of state regulations. Incorporation of federal requirements are necessary to comply with federal Clean Air Act requirements.

Name of Agency Personnel Responsible for Drafting: Robert C. Huber, P.O. Box 47600, Lacey, WA, (360) 407-6776; Implementation and Enforcement: Department of Ecology, P.O. Box 47600, Lacey, WA, (360) 407-6800.

Name of Proponent: Washington State Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Correction of typographical errors and clarification of existing rule language will assist the reader in understanding the rule. No substantive policy issues are raised by these changes.

Adoption of federal requirements by reference is the least burdensome alternative in assisting regulated sources to comply with federal requirements. Application of this rule will not result in any different effects to either public or private entities.

Proposal Changes the Following Existing Rules: WAC 173-400-030(84) Definition, Washington's definition of volatile organic compounds (VOCs) is inconsistent with the definition found in the C.F.R. This rule amendment will update the state definition to correspond to the federal definition.

WAC 173-400-040 General standards for maximum emissions, the rule contains a reference to "section 8, chapter 252, Laws of 1993." Changing the form of this reference to "RCW 70.194.154" will aid those who read the statute.

WAC 173-400-060 Emission standards for general process units, correction of typographical error.

WAC 173-400-070 Emission standards for certain source categories, adoption of federal requirements for land-fill emissions, and hospital and medical waste incinerators.

WAC 173-400-075 Emission standards for sources emitting hazardous air pollutants, in order to remain current with

federally adopted national emission standards for hazardous air pollutants (NESHAP), this amendment will add the following subparts to be adopted by reference:

- Subpart EEE - NESHAP from Hazardous Waste Combustors
- Subpart III - NESHAP for Flexible Polyurethane Foam Production
- Subpart JJJ - NESHAPs for Group IV Polymers and Resins

WAC 173-400-104 Registration fees, correction of typographical error.

WAC 173-400-115 Standards of performance for new sources, subpart Eb (Municipal Waste Combustors), Ec (Medical Waste Incinerators), and OOO (Nonmetallic Mineral Processing Plants) of 40 C.F.R. 63 will be adopted by reference. Text of existing dry cleaning facility rule will be amended to improve usability without changing the underlying substantive meaning of the rule.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Jerry Thielen, Rules Coordinator, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, AND RECEIVED BY April 3, 1999.

January 28, 1999

Daniel Silver

Deputy Director

AMENDATORY SECTION (Amending Order 96-01, filed 12/23/97, effective 1/23/98)

WAC 173-400-030 Definitions. Except as provided elsewhere in this chapter, the following definitions apply throughout the chapter:

(1) "Actual emissions" means the actual rate of emissions of a pollutant from an emission unit, as determined in accordance with (a) through (c) of this subsection.

(a) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. Ecology or an authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(b) Ecology or an authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.

(c) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the emissions unit on that date.

(2) "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairment, and how these factors correlate with (a) times of visitor use of the Federal Class I area, and (b) the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.

(3) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. "Air pollutant" means the same as "air contaminant."

(4) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities, and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property. For the purposes of this chapter, air pollution shall not include air contaminants emitted in compliance with chapter 17.21 RCW, the Washington Pesticide Application Act, which regulates the application and control of the use of various pesticides.

(5) "Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the stationary source (unless the stationary source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(a) The applicable standards as set forth in 40 CFR Part 60 or 61;

(b) Any applicable state implementation plan emissions limitation including those with a future compliance date; or

(c) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

(6) "Ambient air" means the surrounding outside air.

(7) "Ambient air quality standard" means an established concentration, exposure time, and frequency of occurrence of air contaminant(s) in the ambient air which shall not be exceeded.

(8) "Authority" means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.

(9) "Begin actual construction" means, in general, initiation of physical on-site construction activities on an emission unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipe work and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(10) "Best available control technology (BACT)" means an emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation under

chapter 70.94 RCW emitted from or which results from any new or modified stationary source, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application of the "best available control technology" result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61, as they exist on March 1, 1996, or their later enactments as adopted by reference by the director by rule. Emissions from any source utilizing clean fuels, or any other means, to comply with this paragraph shall not be allowed to increase above levels that would have been required under the definition of BACT in the Federal Clean Air Act as it existed prior to enactment of the Clean Air Act Amendments of 1990.

(11) "Best available retrofit technology (BART)" means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

(12) "Bubble" means a set of emission limits which allows an increase in emissions from a given emissions unit(s) in exchange for a decrease in emissions from another emissions unit(s), pursuant to RCW 70.94.155 and WAC 173-400-120.

(13) "Capacity factor" means the ratio of the average load on equipment or a machine for the period of time considered, to the manufacturer's capacity rating of the machine or equipment.

(14) "Class I area" means any area designated pursuant to §§ 162 or 164 of the Federal Clean Air Act as a Class I area. The following areas are the Class I areas in Washington state:

Alpine Lakes Wilderness;
 Glacier Peak Wilderness;
 Goat Rocks Wilderness;
 Mount Adams Wilderness;
 Mount Rainier National Park;
 North Cascades National Park;
 Olympic National Park;
 Pasayten Wilderness;
 Spokane Indian Reservation.

(15) "Combustion and incineration sources" means units using combustion for waste disposal, steam production,

chemical recovery or other process requirements; but excludes open burning.

(16) "Commenced construction" means that the owner or operator has all the necessary preconstruction approvals or permits and either has:

(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(b) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(17) "Concealment" means any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.

(18) "Director" means director of the Washington state department of ecology or duly authorized representative.

(19) "Dispersion technique" means a method which attempts to affect the concentration of a pollutant in the ambient air other than by the use of pollution abatement equipment or integral process pollution controls.

(20) "Ecology" means the Washington state department of ecology.

(21) "Emission" means a release of air contaminants into the ambient air.

(22) "Emission reduction credit (ERC)" means a credit granted pursuant to WAC 173-400-131. This is a voluntary reduction in emissions.

(23) "Emission standard" and "emission limitation" means a requirement established under the FCAA or chapter 70.94 RCW which limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction and any design, equipment work practice, or operational standard promulgated under the FCAA or chapter 70.94 RCW.

(24) "Emissions unit" means any part of a stationary source or source which emits or would have the potential to emit any pollutant subject to regulation under the FCAA, chapter 70.94 or 70.98 RCW.

(25) "Excess emissions" means emissions of an air pollutant in excess of any applicable emission standard.

(26) "Excess stack height" means that portion of a stack which exceeds the greater of sixty-five meters or the calculated stack height described in WAC 173-400-200(2).

(27) "Existing stationary facility" means a stationary source of air pollutants which has the potential to emit two hundred fifty tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted. For purposes of determining whether a stationary source is an existing stationary facility the term "building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same major group (i.e., which have the same two digit code) as

described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement.

(28) "Federal Clean Air Act (FCAA)" means the Federal Clean Air Act, also known as Public Law 88-206, 77 Stat. 392, December 17, 1963, 42 U.S.C. 7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.

(29) "Federal land manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

(30) "Fossil fuel-fired steam generator" means a device, furnace, or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

(31) "Fugitive dust" means a particulate emission made airborne by forces of wind, man's activity, or both. Unpaved roads, construction sites, and tilled land are examples of areas that originate fugitive dust. Fugitive dust is a type of fugitive emission.

(32) "Fugitive emissions" means emissions which do not pass and which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(33) "General process unit" means an emissions unit using a procedure or a combination of procedures for the purpose of causing a change in material by either chemical or physical means, excluding combustion.

(34) "Good engineering practice (GEP)" refers to a calculated stack height based on the equation specified in WAC 173-400-200 (2)(a)(ii).

(35) "Incinerator" means a furnace used primarily for the thermal destruction of waste.

(36) "In operation" means engaged in activity related to the primary design function of the source.

(37) "Integral vista" means a view perceived from within a mandatory Class I federal area of a specific landmark or panorama located outside the boundary of the mandatory Class I federal area.

(38) "Lowest achievable emission rate (LAER)" means for any source that rate of emissions which reflects the more stringent of:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed new or modified source demonstrates that such limitations are not achievable; or

(b) The most stringent emission limitation which is achieved in practice by such class or category of source.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.

(39) "Mandatory Class I federal area" means any area defined in Section 162(a) of the FCAA. The mandatory Class I federal areas in Washington state are as follows:

Alpine Lakes Wilderness;
 Glacier Peak Wilderness;
 Goat Rocks Wilderness;
 Mount Adams Wilderness;
 Mount Rainier National Park;

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North Cascades National Park;
Olympic National Park;
Pasayten Wilderness;

(40) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the FCAA. Any net emissions increase that is considered significant for volatile organic compounds or nitrogen oxides shall be considered significant for ozone. A physical change or change in the method of operation shall not include:

- (a) Routine maintenance, repair, and replacement;
- (b) Use of an alternative fuel or raw material by reason of an order under Sections 2 (a) and (b) of the Energy Supply and Environmental Supply Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;
- (c) Use of an alternative fuel by reason of an order or rule under section 125 of the FCAA, 42 U.S.C. 7425;
- (d) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
- (e) Use of an alternative fuel or raw material by a stationary source which:
 - (i) The stationary source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 12, 1976, in a prevention of significant deterioration permit or notice of construction approval; or
 - (ii) The stationary source is approved to use under any federally-enforceable notice of construction approval or a PSD permit issued by the environmental protection agency;
- (f) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976, in a prevention of significant deterioration permit or a notice of construction approval;
- (g) Any change in ownership at a stationary source.

(41) "Major stationary source" means:

- (a) Any stationary source which:
 - (i) Emits or has the potential to emit one hundred tons per year or more of any air contaminant regulated by the state or Federal Clean Air Acts; or
 - (ii) Is located in a "marginal" or "moderate" ozone nonattainment area and which emits or has the potential to emit one hundred tons per year or more of volatile organic compounds or oxides of nitrogen.
- (b) Any stationary source (or group of stationary sources) which:
 - (i) Is located in a "serious" carbon monoxide nonattainment area where stationary sources contribute significantly to carbon monoxide levels and which emits or has the potential to emit fifty tons per year or more of carbon monoxide; or
 - (ii) Is located in a "serious" particulate matter (PM₁₀) nonattainment area and which emits or has the potential to emit seventy tons per year or more of PM₁₀ emissions.

(c) Any physical change that would occur at a stationary source not qualifying under (a) or (b) of this subsection as a major stationary source, if the change would constitute a major stationary source by itself;

(d) A major stationary source that is major for VOCs or NOx shall be considered major for ozone;

(e) The fugitive emissions of a stationary source shall not be included in determining whether it is a major stationary source, unless the stationary source belongs to one of the following categories of stationary sources or the source is a major stationary source due to (b) of this subsection:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cements plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than two hundred fifty tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than two hundred fifty million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil fuel-fired steam electric plants of more than two hundred fifty million British thermal units per hour heat input; and
- (xxvii) Any other stationary source category which, as of August 7, 1980, was being regulated under sections 111 or 112 of the Federal Clean Air Act.

(f) For purposes of determining whether a stationary source is a major stationary source, the term "building, structure, facility, or installation" means all the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement.

(42) "Masking" means the mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor.

(43) "Materials handling" means the handling, transporting, loading, unloading, storage, and transfer of materials with no significant chemical or physical alteration.

(44) "Modification" means any physical change in, or change in the method of operation of, a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emissions of any air contaminant not previously emitted. The term modification shall be construed consistent with the definitions of modification in Section 7411, Title 42, United States Code, and with rules implementing that section.

(45) "National Emission Standards for Hazardous Air Pollutants (NESHAPS)" means the federal regulations set forth in 40 CFR Parts 61 and 63.

(46) "Natural conditions" means naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

(47) "Net emissions increase" means:

(a) The amount by which the sum of the following exceeds zero:

(i) Any increase in actual emissions from a particular change or change in method of operation at a source; and

(ii) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(b) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date ten years before construction on the particular change commences and the date that the increase from the particular change occurs.

(c) An increase or decrease in actual emissions is creditable only if:

(i) It occurred no more than one year prior to the date of submittal of a complete notice of construction application for the particular change, or it has been documented by an emission reduction credit, in which case the credit shall expire ten years after the date of original issue of the ERC. Any emissions increases occurring between the date of issuance of the ERC and the date when a particular change becomes operational shall be counted against the ERC.

(ii) Ecology or the authority has not relied on it in issuing any permit or order of approval for the source under regulations approved pursuant to 40 CFR 51 Subpart I or the EPA has not relied on it in issuing a PSD permit pursuant to 40 CFR 52.21, which order or permit is in effect when the increase in actual emissions from the particular change occurs.

(d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(e) A decrease in actual emissions is creditable only to the extent that:

(i) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) It is federally enforceable at and after the time that actual construction on the particular change begins;

(iii) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

(iv) Ecology or the authority has not relied on it in issuing any permit or order of approval under regulations approved pursuant to 40 CFR 51 Subpart I, the EPA has not relied on it in issuing a PSD permit pursuant to 40 CFR 52.21, or ecology or the authority has not relied on it in demonstrating attainment or reasonable further progress.

(f) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty days.

(48) "New source" means:

(a) The construction or modification of a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emission of any air contaminant not previously emitted; and

(b) Any other project that constitutes a new source under the Federal Clean Air Act.

(49) "New source performance standards (NSPS)" means the federal regulations set forth in 40 CFR Part 60.

(50) "Nonattainment area" means a clearly delineated geographic area which has been designated by EPA promulgation as exceeding a national ambient air quality standard or standards for one or more of the criteria pollutants.

(51) "Notice of construction application" means a written application to permit construction of a new source, modification of an existing stationary source or replacement or substantial alteration of control technology at an existing stationary source.

(52) "Opacity" means the degree to which an object seen through a plume is obscured, stated as a percentage.

(53) "Open burning" means the combustion of material in an open fire or in an outdoor container, without providing for the control of combustion or the control of the emissions from the combustion. Wood waste disposal in wigwam burners is not considered open burning.

(54) "Order" means any order issued by ecology or a local air authority pursuant to chapter 70.94 RCW, including, but not limited to RCW 70.94.332, 70.94.152, 70.94.153, and 70.94.141(3), and includes, where used in the generic sense, the terms order, corrective action order, order of approval, and regulatory order.

(55) "Order of approval" or "approval order" means a regulatory order issued by ecology or the authority to approve the notice of construction application for a proposed new source or modification, or the replacement or substantial alteration of control technology at an existing stationary source.

(56) "Particulate matter" or "particulates" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

(57) "Particulate matter emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in 40 CFR Part 60 or by a test method specified in the Washington state implementation plan.

(58) "Parts per million (ppm)" means parts of a contaminant per million parts of gas, by volume, exclusive of water or particulates.

(59) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

(60) "PM-10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

(61) "PM-10 emissions" means finely divided solid or liquid material, including condensible particulate matter, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in Appendix M of 40 CFR Part 51 or by a test method specified in the Washington state implementation plan.

(62) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

(63) "Prevention of significant deterioration (PSD)" means the program set forth in WAC 173-400-141.

(64) "Projected width" means that dimension of a structure determined from the frontal area of the structure, projected onto a plane perpendicular to a line between the center of the stack and the center of the building.

(65) "Reasonably attributable" means attributable by visual observation or any other technique the state deems appropriate.

(66) "Reasonably available control technology (RACT)" means the lowest emission limit that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for any source or source category shall be adopted only after notice and opportunity for comment are afforded.

(67) "Regulatory order" means an order issued by ecology or an authority to an air contaminant source which applies to that source, any applicable provision of chapter 70.94 RCW, or the rules adopted thereunder, or, for sources regulated by a local air authority, the regulations of that authority.

(68) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the follow-

ing pollutants, a rate of emission equal to or greater than any one of the following rates:

Pollutant	Tons/Year
Carbon monoxide	100
Nitrogen oxides	40
Sulfur dioxide	40
Particulate matter (PM)	25
Fine particulate matter (PM ₁₀)	15
Volatile organic compounds (VOC)	40
Lead	0.6
Fluorides	3
Sulfuric acid mist	7
Hydrogen sulfide (H ₂ S)	10
Total reduced sulfur (including H ₂ S)	10
Municipal waste combustor organics (measured as total tetra-through octachlorinated dibenzo-p-dioxins and dibenzofurans)	0.0000035
Municipal waste combustor metals (measured as PM)	15

(69) "Significant visibility impairment" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of visitor visual experience of the Class I area. The determination must be made on a case-by-case basis, taking into account the geographic extent, intensity, duration, frequency, and time of the visibility impairment, and how these factors correlate with the time of visitor use of the Class I area and frequency and timing of natural conditions that reduce visibility.

(70) "Source" means all of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control, whose activities are ancillary to the production of a single product or functionally related groups of products. Activities shall be considered ancillary to the production of a single product or functionally related group of products if they belong to the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement.

(71) "Source category" means all sources of the same type or classification.

(72) "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct.

(73) "Stack height" means the height of an emission point measured from the ground-level elevation at the base of the stack.

(74) "Standard conditions" means a temperature of 20° (68° F) and a pressure of 760 mm (29.92 inches) of mercury.

(75) "Stationary source" means any building, structure, facility, or installation which emits or may emit any contaminant. This term does not include emissions resulting directly from an internal combustion engine for transportation pur-

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poses or from a nonroad engine or nonroad vehicle as defined in Section 216 of the FCAA.

(76) "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.

(77) "Synthetic minor" means any source whose potential to emit has been limited below applicable thresholds by means of a federally enforceable order, rule, or permit condition.

(78) "Total reduced sulfur (TRS)" means the sum of the sulfur compounds hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides emitted and measured by EPA method 16 or an approved equivalent method and expressed as hydrogen sulfide.

(79) "Total suspended particulate" means particulate matter as measured by the method described in 40 CFR Part 50 Appendix B as in effect on October 17, 1996.

(80) "Toxic air pollutant (TAP)" or "toxic air contaminant" means any Class A or B toxic air pollutant listed in WAC 173-460-150 and 173-460-160. The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150 and/or 173-460-160. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.

(81) "United States Environmental Protection Agency (USEPA)" shall be referred to as EPA.

(82) "Visibility impairment" means any perceptible degradation in visibility (visual range, contrast, coloration) not caused by natural conditions.

(83) "Visibility impairment of Class I areas" means visibility impairment within the area and visibility impairment of any formally designated integral vista associated with the area.

(84) "Volatile organic compound (VOC)" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes:

(a) Any such organic compound other than the following, which has been determined to have negligible photochemical reactivity: Methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro 1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro 1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; (~~acetone; perchloroethylene (tetrachloroethylene);~~) acetone; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoro-

ropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1 chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OCH₃); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OC₂H₅); methyl chloride and perfluorocarbon compounds which fall into these classes:

(i) Cyclic, branched, or linear completely fluorinated alkanes;

(ii) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations; (~~and~~)

(iii) Cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations; and

(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(b) For the purpose of determining compliance with emission limits, VOC will be measured by the appropriate methods in 40 CFR Part 60 Appendix A. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by ecology or the authority.

(c) As a precondition to excluding these negligibly-reactive compounds as VOC or at any time thereafter, ecology or the authority may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of ecology or the authority, the amount of negligibly-reactive compounds in the source's emissions.

AMENDATORY SECTION (Amending Order 93-03, filed 8/20/93, effective 9/20/93)

WAC 173-400-040 General standards for maximum emissions. All sources and emissions units are required to meet the emission standards of this chapter. Where an emission standard listed in another chapter is applicable to a specific emissions unit, such standard will take precedent over a general emission standard listed in this chapter. When two or more emissions units are connected to a common stack and the operator elects not to provide the means or facilities to sample emissions from the individual emissions units, and the relative contributions of the individual emissions units to the common discharge are not readily distinguishable, then the emissions of the common stack must meet the most restrictive standard of any of the connected emissions units. Further, all emissions units are required to use reasonably available control technology (RACT) which may be determined for some sources or source categories to be more stringent than the applicable emission limitations of any chapter

of Title 173 WAC. Where current controls are determined to be less than RACT, ecology or the authority shall, as provided in ((~~section 8, chapter 252, Laws of 1993~~)) RCW 70.194.154, define RACT for each source or source category and issue a rule or regulatory order requiring the installation of RACT.

(1) Visible emissions. No person shall cause or permit the emission for more than three minutes, in any one hour, of an air contaminant from any emissions unit which at the emission point, or within a reasonable distance of the emission point, exceeds twenty percent opacity except:

(a) When the emissions occur due to soot blowing/grate cleaning and the operator can demonstrate that the emissions will not exceed twenty percent opacity for more than fifteen minutes in any eight consecutive hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of boiler facilities. This practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and ecology or the authority be advised of the schedule.

(b) When the owner or operator of a source supplies valid data to show that the presence of uncombined water is the only reason for the opacity to exceed twenty percent.

(c) When two or more sources are connected to a common stack, ecology or the authority may allow or require the use of an alternate time period if it is more representative of normal operations.

(d) When an alternate opacity limit has been established per RCW 70.94.331 (2)(c).

(2) Fallout. No person shall cause or permit the emission of particulate matter from any source to be deposited beyond the property under direct control of the owner(s) or operator(s) of the source in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material is deposited.

(3) Fugitive emissions. The owner or operator of any emissions unit engaging in materials handling, construction, demolition or any other operation which is a source of fugitive emission:

(a) If located in an attainment area and not impacting any nonattainment area, shall take reasonable precautions to prevent the release of air contaminants from the operation.

(b) If the emissions unit has been identified as a significant contributor to the nonattainment status of a designated nonattainment area, shall be required to use reasonable and available control methods, which shall include any necessary changes in technology, process, or other control strategies to control emissions of the contaminants for which nonattainment has been designated.

(4) Odors. Any person who shall cause or allow the generation of any odor from any source which may unreasonably interfere with any other property owner's use and enjoyment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.

(5) Emissions detrimental to persons or property. No person shall cause or permit the emission of any air contaminant from any source if it is detrimental to the health, safety, or welfare of any person, or causes damage to property or business.

(6) Sulfur dioxide.

No person shall cause or permit the emission of a gas containing sulfur dioxide from any emissions unit in excess of one thousand ppm of sulfur dioxide on a dry basis, corrected to seven percent oxygen for combustion sources, and based on the average of any period of sixty consecutive minutes, except:

When the owner or operator of an emissions unit supplies emission data and can demonstrate to ecology or the authority that there is no feasible method of reducing the concentration to less than one thousand ppm (on a dry basis, corrected to seven percent oxygen for combustion sources) and that the state and federal ambient air quality standards for sulfur dioxide will not be exceeded. In such cases, ecology or the authority may require specific ambient air monitoring stations be established, operated, and maintained by the owner or operator at mutually approved locations. All sampling results will be made available upon request and a monthly summary will be submitted to ecology or the authority.

(7) Concealment and masking. No person shall cause or permit the installation or use of any means which conceals or masks an emission of an air contaminant which would otherwise violate any provisions of this chapter.

(8) Fugitive dust sources.

(a) The owner or operator of a source of fugitive dust shall take reasonable precautions to prevent fugitive dust from becoming airborne and shall maintain and operate the source to minimize emissions.

(b) The owner(s) or operator(s) of any existing source(s) of fugitive dust that has been identified as a significant contributor to a PM-10 nonattainment area shall be required to use reasonably available control technology to control emissions. Significance will be determined by the criteria found in WAC 173-400-113(3).

AMENDATORY SECTION (Amending Order 98-04, filed 7/21/98, effective 8/21/98)

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 gram((s)) per dry cubic meter at standard conditions (0.1 grain/dscf) of exhaust gas. EPA test methods from 40 CFR 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 98-04, filed 7/21/98, effective 8/21/98)

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.** Standards for the incineration of sewage sludge found in 40 CFR Part 503 subparts A (General Provisions) and E (Incineration) in effect on July 1, 1997, are adopted by reference.

(9) Municipal solid waste landfills constructed, reconstructed, or modified before May 30, 1991. A municipal solid waste landfill (MSW landfill) is an entire disposal facility in a contiguous geographical space where household waste is placed in or on the land. A MSW landfill may also receive other types of waste regulated under Subtitle D of the Federal Resource Conservation and Recovery Act including the following: Commercial solid waste, non-hazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. A MSW landfill may be either publicly or privately owned. A MSW landfill may be a new MSW landfill, an existing MSW landfill, or a lateral expansion.

(a) Applicability. These rules apply to each existing MSW landfill constructed, reconstructed, or modified before May 30, 1991. (See WAC 173-400-115(2) for MSW landfills constructed, reconstructed, or modified on or after May 30, 1991.)

(b) Exceptions. Any physical or operational change to an existing MSW landfill made solely to comply with these rules is not considered a modification or rebuilding.

(c) Recordkeeping and reporting. All existing MSW landfills must follow the recordkeeping and reporting requirements in 40 CFR 60.757 (submission of an initial design capacity report) and 40 CFR 60.758 (recordkeeping requirements). Exceptions to these requirements are located in 40 CFR 60.24.

(d) Test methods and procedures.

(i) All existing MSW landfills must calculate the landfill nonmethane organic compound (NMOC) emission rates following the procedures listed in 40 CFR 60.754.

(ii) Gas collection and control systems must meet the requirements in 40 CFR 60.752 (b)(2)(ii) through the following procedures:

(A) The systems must follow the operational standards in 40 CFR 60.753.

(B) The systems must follow the compliance provisions in 40 CFR 60.755 (a)(1) through (a)(6) to determine whether the system is in compliance with 40 CFR 60.752 (b)(2)(ii).

(C) The system must follow the applicable monitoring provisions in 40 CFR 60.756.

(e) Conditions. Existing MSW landfills that meet the following conditions must install a gas collection and control system:

(i) The landfill accepted waste at any time since November 8, 1987, or the landfill has additional design capacity available for future waste deposition;

(ii) The landfill has design capacity greater than or equal to 2.5 million megagrams or 2.5 million cubic meters. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exception values. Any density conversions shall be documented and submitted with the report; and

(iii) The landfill has a nonmethane organic compound (NMOC) emission rate of 50 megagrams per year or greater.

(f) Change in conditions. After the adoption date of this rule, a landfill that meets all three conditions in (e) of this subsection must comply with all the requirements of this section within thirty months of the date when the conditions were met. This change will usually occur because the NMOC emission rate equaled or exceeded the rate of 50 megagrams per year.

(g) Gas collection and control systems.

(i) Gas collection and control systems must meet the requirements in 40 CFR 60.752 (b)(2)(ii).

(ii) The design plans must be prepared by a licensed professional engineer and submitted to ecology within one year after the adoption date of this section.

(iii) The system must be installed within eighteen months after the submittal of the design plans.

(iv) The system must be operational within thirty months after the adoption date of this section.

(v) The emissions that are collected must be controlled in one of three ways:

(A) An open flare designed and operated according to 40 CFR 60.18;

(B) A control system designed and operated to reduce NMOC by 98 percent by weight; or

(C) An enclosed combustor designed and operated to reduce the outlet NMOC concentration to 20 parts per million as hexane by volume, dry basis to three percent oxygen, or less.

(10) Hospital, medical and infectious waste incinerators.

(a) Scope. This subsection contains emission standards and compliance times for the control of certain emissions from hospital, medical, and infectious waste incinerators (HMIWI) in accordance with sections 111 and 129 of the federal Clean Air Act and subparts B and Ce of 40 CFR Part 60. The provisions in these emission standards supersede the provisions of 40 CFR 60.24(f).

(b) Definitions. Terms used but not defined in this subsection have the meaning given them in the federal Clean Air Act and in subparts A, B, Ce and Ec of 40 CFR Part 60.

(i) "Large HMIWI" means a hospital, medical and infectious waste incinerator that burns over 500 pounds of hospital, medical and infectious waste per hour.

(ii) "Medium HMIWI" means a hospital, medical and infectious waste incinerator that burns from 200 pounds to 500 pounds of hospital, medical and infectious waste per hour.

(iii) "Small HMIWI" means a hospital, medical and infectious waste incinerator that burns less than or equal to 200 pounds of hospital, medical and infectious waste per hour.

(iv) "Remote small HMIWI" means a hospital, medical and infectious waste incinerator that is located more than 50 miles from the boundary of a Standard Metropolitan Statistical Area and which burns less than 2,000 pounds per week of hospital waste and medical/infectious waste. The 2,000 pound per week limitation does not apply during performance tests.

(v) "Standard Metropolitan Statistical Area," or SMSA, means any area listed in OMB Bulletin No. 93-17 entitled "Revised Statistical Definitions for Metropolitan Areas" dated June 30, 1993.

(c) Applicability. This rule applies to each HMIWI for which construction was commenced on or before June 20, 1996.

(d) Exceptions.

(i) A combustor is not subject to this subsection during periods when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste (all defined in 40 CFR 60.51c) is burned, provided the owner or operator of the combustor does the following:

(A) Notifies ecology or the local air authority of an exemption claim; and

(B) Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste is burned.

(ii) Any co-fired combustor (defined in 40 CFR 60.51c) is not subject to this subsection, provided the owner or operator of the co-fired combustor does the following:

(A) Notifies ecology or the local air authority of an exemption claim;

(B) Provides an estimate of the relative weight of hospital waste, medical/infectious waste, and other fuels and/or wastes to be combusted; and

(C) Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor.

(iii) Any combustor required to have a permit under Section 3005 of the federal Solid Waste Disposal Act is not subject to this subsection.

(iv) Any combustor which meets the applicability requirements under, subparts Cb, Ea or Eb of 40 CFR Part 60 (standards or guidelines for certain municipal waste combustors) is not subject to this subsection.

(v) Any pyrolysis unit (defined in 40 CFR 60.51c) is not subject to this subsection.

(vi) Cement kilns firing hospital waste and/or medical/infectious waste are not subject to this subsection.

(vii) Physical or operational changes made to an existing HMIWI unit solely for the purpose of complying with these rules are not considered a modification and will not result in an existing HMIWI becoming subject to this subsection.

(e) Emission requirements.

(i) Each small HMIWI must comply with the emission limits listed below in Table 1.

Table 1

Pollutant Emission Limits for Small Existing HMIWI

Less than or equal to 200 lbs./hour

Note: The footnoted references are found after Table 4 in

WAC 173-400-070 (10)(e)(iv)

Pollutant	Emission Limit ²	Compliance Testing & Monitoring Requirements	Frequency of Monitoring
PM	115 mg/dscm (0.05 gr/dscf)	EPA reference method 5 ⁴ or 29	Annual or third year stack test ²
CO	40 ppm _{dv}	EPA reference method 10 ⁴ or 10B	CEMS, 12-hour arithmetic average
Dioxin/furan	2.3 ng/dscm TEQ (1.0 gr/10 ³ dscf) or 125 ng/dscm (55 gr/10 ³ dscf) total dioxin/furan	EPA reference method 23 ^{1,3}	Annual or third year stack test ² and continuous monitoring of sorbent (carbon) injection rate and PM control device inlet temperature
HCl	100 ppm _{dv} or 93% reduction ⁴	EPA reference method 26 ¹	Annual or third year stack test ² and continuous monitoring of charge rate and sorbent (lime) flow rate
SO ₂	55 ppm _{dv}	EPA reference method 6, 6A, 6B, or 6C ¹	N/A
NO _x	250 ppm _{dv}	EPA reference method 7, 7A or 7E ¹	N/A
Pb	1.2 mg/dscm (0.52 gr/10 ³ dscf) or 70% reduction ⁴	EPA reference method 29 ¹	Annual or third year stack test ²
Cd	0.16 mg/dscm (0.07 gr/10 ³ dscf) or 65% reduction ⁴	EPA reference method 29 ¹	Annual or third year stack test ²
Hg	0.55 mg/dscm (0.24 gr/10 ³ dscf) or 85% reduction ⁴	EPA reference method 29 ¹	Annual or third year stack test ² and continuous monitoring of charge rate and sorbent (carbon) injection rate
Opacity	10%, 6 minute average	EPA reference method 9 ¹	Annual 1 hr. test

(ii) Each medium HMIWI must comply with the emission limits listed below in Table 2.

Table 2

Pollutant Emission Limits for Medium Existing HMIWI

200 to 500 lbs./hour

Note: The footnoted references are found after Table 4 in

WAC 173-400-070 (10)(e)(iv)

Pollutant	Emission Limit ²	Compliance Testing & Monitoring Requirements	Frequency of Monitoring
PM	69 mg/dscm (0.03 gr/dscf)	EPA reference method 5 ⁴ or 29	Annual or third year stack test ²
CO	40 ppm _{dv}	EPA reference method 10 ⁴ or 10B	CEMS, 12-hour arithmetic average
Dioxin/furan	2.3 ng/dscm TEQ (1.0 gr/10 ³ dscf) or 125 ng/dscm (55 gr/10 ³ dscf) total dioxin/furan	EPA reference method 23 ^{1,3}	Annual or third year stack test ² and continuous monitoring of sorbent (carbon) injection rate and PM control device inlet temperature
HCl	100 ppm _{dv} or 93% reduction ⁴	EPA reference method 26 ¹	Annual or third year stack test ² and continuous monitoring of charge rate and sorbent (lime) flow rate
SO ₂	55 ppm _{dv}	EPA reference method 6, 6A, 6B, or 6C ¹	N/A
NO _x	250 ppm _{dv}	EPA reference method 7, 7A or 7E ¹	N/A
Pb	1.2 mg/dscm (0.52 gr/10 ³ dscf) or 70% reduction ⁴	EPA reference method 29 ¹	Annual or third year stack test ²
Cd	0.16 mg/dscm (0.07 gr/10 ³ dscf) or 65% reduction ⁴	EPA reference method 29 ¹	Annual or third year stack test ²
Hg	0.55 mg/dscm (0.24 gr/10 ³ dscf) or 85% reduction ⁴	EPA reference method 29 ¹	Annual or third year stack test ² and continuous monitoring of charge rate and sorbent (carbon) injection rate
Opacity	10%, 6 minute average	EPA reference method 9 ¹	Annual 1 hr. test

(iii) Each large HMIWI must comply with the emission limits listed below in Table 3.

EXPEDITED ADOPTION

Table 3
Pollutant Emission Limits for Large Existing HMIWI
Over 500 lbs./hour
 Note: The footnoted references are found after Table 4 in
 WAC 173-400-070 (10)(e)(iv)

Pollutant	Emission Limit ²	Compliance Testing & Monitoring Requirements	Frequency of Monitoring
PM	34 mg/dscm (.03 gr/dscf)	EPA reference method 5 ¹ or 29	Annual or third year stack test ²
CO	40 ppm _{dv}	EPA reference method 10 ¹ or 10B	CEMS, 12-hour arithmetic average
Dioxin/furan	2.3 ng/dscm TEQ (1.0 gr/10 ³ dscf) or 125 ng/dscm (55 gr/10 ³ dscf) total dioxin/furan	EPA reference method 23 ^{1,3}	Annual or third year stack test ² and continuous monitoring of sorbent (carbon) injection rate and PM control device inlet temperature
HCl	100 ppm _{dv} or 93% reduction ⁴	EPA reference method 26 ¹	Annual or third year stack test ² and continuous monitoring of charge rate and sorbent (lime) flow rate
SO ₂	55 ppm _{dv}	EPA reference method 6, 6A, 6B, or 6C ¹	N/A
NO _x	250 ppm _{dv}	EPA reference method 7, 7A or 7E ¹	N/A
Pb	1.2 mg/dscm (0.52 gr/10 ³ dscf) or 70% reduction ⁴	EPA reference method 29 ¹	Annual or third year stack test ²
Cd	0.16 mg/dscm (0.07 gr/10 ³ dscf) or 65% reduction ⁴	EPA reference method 29 ¹	Annual or third year stack test ²
Hg	0.55 mg/dscm (0.24 gr/10 ³ dscf) or 85% reduction ⁴	EPA reference method 29 ¹	Annual or third year stack test ² and continuous monitoring of charge rate and sorbent (carbon) injection rate
Opacity	10%, 6 minute average	EPA reference method 9 ¹	Annual 1 hr. test

Table 4
Pollutant Emission Limits for Remote Small Existing HMIWI
Less than or equal to 2000 lbs./week
 Located at least 50 miles from Standard Metropolitan Statistical Area

Pollutant	Emission Limit ²	Compliance Testing & Monitoring Requirements	Frequency of Monitoring
PM	197 mg/dscm (0.0086 gr/dscf)	EPA reference method 5 ¹ or 29	Conduct an initial performance test to determine compliance with the PM, CO, Dioxin/furan and Hg and Opacity emission limits and establish operating parameters
CO	40 ppm _{dv}	EPA reference method 10 ¹ or 10B	
Dioxin/furan	800 ng/dscm total CDD/CDF (350 gr/10 ³ dscf) or 15 ng/dscm TEQ (6.6 gr/10 ³ dscf)	EPA reference method 23 ^{1,3}	
HCl	3,100 ppm _{dv} ⁴	EPA reference method 26 ¹	
SO ₂	55 ppm _{dv}	EPA reference method 6, 6A, 6B, or 6C ¹	
NO _x	250 ppm _{dv}	EPA reference method 7, 7A or 7E ¹	
Pb	10 mg/dscm (4.4 gr/10 ³ dscf) ⁴	EPA reference method 29 ¹	
Cd	4 mg/dscm (1.7 gr/10 ³ dscf) ⁴	EPA reference method 29 ¹	
Hg	7.5 mg/dscm (3.3 gr/10 ³ dscf) ⁴	EPA reference method 29 ¹	
Opacity	10%, 6 minute average	EPA reference method 9 ¹	

Footnotes for emission limits and compliance testing and monitoring requirements.

1. All performance tests and compliance tests shall consist of three test runs with a minimum sample time of one hour per run unless otherwise specified.
2. All limits except opacity are at dry volume corrected to 7% oxygen by the following formula:

$$C_{adj} = C_{meas} \left(\frac{20.9 - 7}{20.9 - \%O_2} \right)$$

where C_{adj} = concentration adjusted to 7% O₂

C_{meas} = concentration at stack %O₂

%O₂ = actual, dry stack %O₂

(iv) Each remote small HMIWI must comply with the applicable emission limits listed below in Table 4.

EXPEDITED ADOPTION

3. For Reference Method 23, each test run shall be a minimum of 4 hours duration. If the facility and regulatory agency have chosen to express the limit in terms of TEO, the tested concentrations of each dioxin/furan congener shall be multiplied by the appropriate

$$\%R = \left(\frac{E_i - E_o}{E_i} \right)$$

where %R = % of the pollutant removal through the control device

E_i = concentration of pollutant at inlet to control device, corrected to 7% O₂ (dry basis)

E_o = measured concentration of pollutant at outlet of control device, corrected to 7% O₂ (dry basis)

If three consecutive annual compliance tests indicate compliance with the emission limit, then the test frequency is reduced to a three-year sequencing. At such time as a compliance test indicates noncompliance with the limits, the compliance test must be conducted annually until three consecutive annual tests indicate compliance with emission limits.

(v) The emission limits under this subpart apply at all times except during periods of startup, shutdown, or malfunction, provided that no hospital waste or medical/infectious waste is charged to the affected facility during startup, shutdown, or malfunction.

(f) Operator training and qualification requirements. Each HMIWI shall comply with the operator training and qualification requirements listed in 40 CFR 60.53c by March 15, 2000.

(g) Waste management plans. Each HMIWI must comply with the waste management plan requirements listed in 40 CFR 60.55c.

(h) Inspection requirements for remote small HMIWIs.

(i) Each remote small HMIWI must undergo an initial equipment inspection by March 15, 2000. At a minimum, an inspection must include the following:

1. Inspect all burners, pilot assemblies, and pilot sensing devices for proper operation; clean pilot flame sensor as necessary;

2. Ensure proper adjustment of primary and secondary chamber combustion air, and adjust as necessary;

3. Inspect hinges and door latches, and lubricate as necessary;

4. Inspect dampers, fans, and blowers for proper operation;

5. Inspect HMIWI door and door gaskets for proper sealing;

6. Inspect motors for proper operation;

7. Inspect primary chamber refractory lining; clean and repair/replace lining as necessary;

8. Inspect incinerator shell for corrosion and/or hot spots;

9. Inspect secondary/tertiary chamber and stack, clean as necessary;

10. Inspect mechanical loader, including limit switches, for proper operation, if applicable;

11. Visually inspect waste bed (grates), and repair/seal/replace, as appropriate;

TEO factor from Table 2 of 40 CFR Subpart Ec with the resulting adjusted concentrations summed and reported as TEO.

4. % removals calculated by the following formula:

12. For the burn cycle that follows the inspection, document that the incinerator is operating properly and make any necessary adjustments;

13. Inspect air pollution control device(s) for proper operation, if applicable;

14. Inspect waste heat boiler systems to ensure proper operation, if applicable;

15. Inspect bypass stack components;

16. Ensure proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment; and

17. Generally observe that the equipment is maintained in good operating condition.

(ii) Within ten operating days following an equipment inspection, all necessary repairs shall be completed unless the owner or operator obtains written approval from ecology or the local air authority establishing a date whereby all necessary repairs of the HMIWI shall be completed.

(iii) Following the initial inspection, each remote small HMIWI shall undergo an annual equipment inspection. Inspections shall occur no more than twelve months following the previous annual equipment inspection.

(i) Compliance, performance testing, and monitoring requirements.

(i) Each small, medium, and large HWIMI must comply with the requirements for compliance and performance testing listed in 40 CFR 60.56c, excluding the fugitive emissions testing requirements under 40 CFR 60.56c (b)(12) and (c)(3).

(ii) If the HWIMI uses a continuous emissions monitoring system to demonstrate compliance with emission limits, it must comply with the following conditions:

1. Determine compliance based on twelve operating hour rolling averages, not including periods of start-up, shutdown, and malfunctions; and

2. Meet the requirements of 40 CFR Part 60, Appendices B and F.

(iii) HWIMIs which exceed emission limits during performance testing may repeat the test according to the process identified in 40 CFR 60.56c(h).

(iv) Each remote small HMIWI shall meet the following compliance and performance testing requirements:

1. Follow the performance testing requirements in 40 CFR 60.56c (a), (b)(1) through (b)(9), (b)(11) (for mercury only), and (c)(1). The 2,000 pound per week limitation does not apply during performance tests.

2. Establish maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emission limits.

3. After the initial performance test is completed, ensure that at all times the HMIWI does not operate above the maximum charge rate or below the minimum secondary chamber temperature, measured as three-hour rolling averages (calculated each hour as the average of the previous three operating hours) except during periods of startup, shutdown and malfunction. Operating parameter limits do not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature constitutes a violation of the established operating parameter(s).

4. Except as provided in subsection (5) of this section, operation of the HMIWI above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a three-hour rolling average) simultaneously constitutes a violation of the PM, CO, and dioxin/furan emission limits.

5. The owner or operator of a HMIWI may conduct a repeat performance test within thirty days of violation of applicable operating parameter(s) to demonstrate that the HMIWI is not in violation of the applicable emission limit(s). Repeat performance tests conducted pursuant to this paragraph must be conducted using the identical operating parameters that indicated a violation under subsection (4) of this section.

(v) Small, medium, and large HMIWIs are subject to the monitoring requirements listed in 40 CFR 60.57c.

(vi) Each remote small HMIWI must meet the following monitoring requirements:

1. Install, calibrate (to manufacturers' specifications), maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation.

2. Install, calibrate (to manufacturers' specifications), maintain, and operate a device that automatically measures and records the date, time, and weight of each charge fed into the HMIWI.

3. The owner or operator of a HMIWI shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for seventy-five percent of the operating hours per day and for ninety percent of the operating hours per calendar quarter that the HMIWI is combusting hospital waste and/or medical/infectious waste.

(j) Reporting and recordkeeping requirements.

(i) Each small, medium, and large HMIWI is subject to the reporting and recordkeeping requirements listed in 40 CFR 60.58c (b), (c), (d), (e), and (f), excluding Sec. 60.58c (b)(2)(ii) (fugitive emissions) and (b)(7) (siting).

(ii) The owner or operator of each remote small HMIWI must comply with the following:

1. Maintain records of the annual equipment inspections, any required maintenance, and any repairs not completed within ten days of an inspection or the time frame established

by the department of ecology or the local air pollution control authority; and

2. Submit an annual report containing this information to the department of ecology or the local air pollution control authority no later than sixty days following the year in which data were collected. Subsequent reports shall be sent no later than twelve calendar months following the previous report. (Once the HMIWI is subject to permitting requirements under chapter 173-401 WAC, the owner or operator must submit these reports semiannually.) The report must be signed by the facilities manager.

(k) Compliance date. HMIWIs shall comply with all requirements of this subsection by March 15, 2000.

(l) Operating permit. Beginning September 15, 2000, or on the effective date of an EPA-approved Clean Air Act Title V operating permit program, whichever date is later, HMIWIs subject to this subsection must operate pursuant to a permit issued under chapter 173-401 WAC.

AMENDATORY SECTION (Amending Order 98-04, filed 7/21/98, effective 8/21/98)

WAC 173-400-075 Emission standards for sources emitting hazardous air pollutants. (1) National emission standards for hazardous air pollutants (NESHAPs). NESHAPs and Appendices found in 40 CFR Part 61 in effect on ((April)) November 1, 1998, are adopted by reference. The term "administrator" in 40 CFR Part 61 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 ((shall)) must conform with the requirements of 40 CFR Parts 61 and 63.

(4) This section ((shall)) does not apply to any source operating ((pursuant to)) under 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) **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)) November 1, 1998, is adopted by reference. The term "administrator" in 40 CFR Part 63 includes the director of ecology.

Subpart A

General Provisions

Subpart B

Requirements for Control Technology Determinations for Major Sources According to Section 112(g) and 112(j) of the federal Clean Air Act

(b) Applicability. This section applies to all dry cleaning systems using perchloroethylene (PCE). In addition to meeting the requirements in this subsection, all dry cleaning systems that are new sources, as defined in WAC 173-400-030, must also meet the BACT requirements contained in this chapter. 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)) <u>Purchasing</u> less than:	((Consuming)) <u>Purchasing</u> between:	((Consuming)) <u>Purchasing</u> 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.))~~

• Small area sources. Systems installed after September 21, 1993, must vent all PCE vapors through a refrigerated condenser.

• Large area sources. Systems must vent all PCE vapors through a refrigerated condenser.

• Major sources. Systems must follow the requirements found in 40 CFR Part 63, Subpart M that were in effect on November 1, 1998.

(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:))~~ All systems must meet each of the following requirements:

(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)))~~ Inspection.

• Small area sources must inspect the system for perceptible leaks while it is operating once every two weeks.

• Large area sources must inspect the system for perceptible leaks while it is operating once every week.

• Major area source must inspect the system for perceptible leaks while it is operating once every week.

An inspection must include an examination of the following system components:

(A) Hose and pipe connections, fittings, couplings, and valves;

(B) Door gaskets and seatings;

(C) Filter gaskets and seatings;

(D) Pumps;

(E) Solvent tanks and containers;

(F) Water separators;

(G) Muck cookers;

(H) Stills;

(I) Exhaust dampers;

(J) Diverter valves; and

(K) Cartridge filter housings;

(ii) Repairs. Leaks must be repaired within twenty-four hours of detection unless repair parts cannot be ordered within that period of time. Repair parts must be ordered within two working days of detecting the leak. Repair parts must be installed within five working days after arrival;

(iii) Drain cartridge filters in their housing or other sealed container for at least twenty-four hours before discarding the cartridges;

~~((iii)))~~ (iv) Close the door of each dry cleaning machine except when transferring articles to or from the machine;

~~((iv)))~~ (v) Store all perchloroethylene, and wastes containing perchloroethylene, in a closed container; and

~~((v)))~~ (vi) 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 any perchloroethylene dry cleaning system using a refrigerated condenser unless all of the following conditions are met:))~~ Systems using refrigerated condensers must meet all of the following requirements:

(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))~~ must 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))~~ must be logged weekly. If the dry cleaning system was constructed before December 9, 1991, temperature sensors ~~((shall))~~ must be installed by September 23, 1996;

(iii) ~~((The))~~ A converted machine with a refrigerated condenser ~~((shall))~~ must 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

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(iv) The refrigerated condenser ~~((shall))~~ must 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:))~~ Systems using a carbon adsorber must meet all of the following requirements:

(i) The concentration of perchloroethylene at the exhaust of the carbon adsorber ~~((shall))~~ must 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))~~ must 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))~~ must 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))~~ must keep the following records on-site:

(i) Design specifications and operating manuals for all perchloroethylene dry cleaning equipment;

(ii) Design specifications and operating manuals for all process vent control devices; and

(iii) An operations and maintenance plan, updated on the first of each month, that includes a log of the following information:

• The date of all monitoring and each inspection and repair of the dry cleaning system;

• The results of all monitoring and each inspection and repair of the dry cleaning system;

• A record of the volume of perchloroethylene purchased each month;

• A record of the total amount of perchloroethylene purchased over the previous twelve months;

• All receipts of perchloroethylene purchases; and

• A record of any pollution prevention activities that have been accomplished.

This information must be maintained on-site and shown upon request for a period of five years.

(h) 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, as in effect on November 1, 1998.

AMENDATORY SECTION (Amending Order 93-40, filed 3/22/95, effective 4/22/95)

WAC 173-400-104 Registration fees. (1) Registration fee determination. In counties without an active local air pollution control authority, ecology shall establish registration fees based on workload using the process outlined below. The fees collected shall be sufficient to cover the direct and indirect costs of administering the registration program within ecology's jurisdiction.

(2) Budget preparation. Ecology shall conduct a workload analysis projecting resource requirements for administering the registration program. Workload estimates shall be prepared on a biennial basis and shall estimate the resources required to perform registration program activities listed in WAC ~~((173-400-097))~~ 173-400-099(2). Ecology shall prepare a budget for administering the registration program using workload estimates identified in the workload analysis for the biennium.

(3) Registration fee schedule. Ecology's registration program budget shall be distributed to sources located in its jurisdiction according to the following:

(a) Sources requiring periodic registration and inspections shall pay an annual registration fee of four hundred dollars.

(b) Sources requiring annual registration and inspections shall pay a registration fee comprised of the following three components:

(i) Flat component. This portion of a source's fee shall be calculated by the equal division of thirty-five percent of the budget amount allocated to annual registration sources by the total number of sources requiring annual registration.

(ii) Complexity component. Each source is assigned a complexity rating of 1, 3, or 5 which is based on the estimated amount of time needed to review and inspect the source. This portion of the fee is calculated by dividing forty percent of the budget amount allocated to annually registered sources by the total complexity of sources located in ecology's jurisdiction. The quotient is then multiplied by an individual source's complexity rating to determine that source's complexity portion of the fee.

(iii) Emissions component. This portion of a source's fee is calculated by dividing twenty-five percent of the budget amount allocated to annually registered sources by the total billable emissions from those sources. The quotient is then multiplied by an individual source's billable emissions to determine that source's emissions portion of the fee. Billable emissions include all air pollutants except carbon monoxide and total suspended particulate.

(4) Regulatory orders. Owners or operators registering a source as a synthetic minor must obtain a regulatory order which limits the source's emissions. The owner will be required to pay a fee based on the amount of time required to research and write the order multiplied by an hourly rate of sixty dollars.

(5) Fee reductions for pollution prevention initiatives. Ecology may reduce registration fees for an individual source if that source demonstrates the use of approved pollution prevention measures or best management practices beyond those required of the source.

(6) Fee reductions for economic hardships. If a small business owner believes the registration fee results in an extreme economic hardship, the small business owner may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the registration fee through to customers; average annual profits, and cumulative effects of multiple site ownership. In no case will a registration fee be reduced below two hundred dollars.

(7) Fee payments. Fees specified in this section shall be paid within thirty days of receipt of ecology's billing statement. All fees collected under this regulation shall be made payable to the Washington department of ecology. A late fee surcharge of fifty dollars or ten percent of the fee, whichever is more, may be assessed for any fee not received after the thirty-day period.

(8) Dedicated account. All registration fees collected by ecology shall be deposited in the air pollution control account.

(9) Tracking revenues, time, and expenditures. Ecology shall track revenues collected under this subsection on a source-specific basis. Ecology shall track time and expenditures on the basis of ecology budget functions.

AMENDATORY SECTION (Amending Order 98-02, filed 10/23/98, effective 11/23/98)

WAC 173-400-115 Standards of performance for new sources. ((Title 40, Code of Federal Regulations, Part 60 (standards of performance for new sources), as in effect on January 1, 1993, is adopted by reference except for sections 60.5 (determination of construction or modification) and 60.6 (review of plans). The term "administrator" in 40 CFR Part 60 shall mean both the administrator of EPA and the director of ecology.

Title 40, Code of Federal Regulations, Part 60, subpart WWW (40 CFR 60.750 *et seq.*) Standards of Performance for Municipal Solid Waste Landfills, as in effect on 10-1-98 is adopted by reference.

As of January 1, 1993, the federal regulations adopted by reference hereby set standards of performance affecting facilities for the following described subparts of 40 CFR Part 60: (1) NSPS. Standards of performance for new sources are called New Source Performance Standards, or NSPS. They are found in Title 40, Code of Federal Regulations, Part 60.

(2) Adoption by reference. This list of federal NSPS and Appendices, located in 40 CFR Part 60, as in effect on November 1, 1998, is adopted by reference. The term "administrator" in 40 CFR 60 includes the director of ecology.

Subpart D Fossil fuel fired steam generators for which construction commenced after August 17, 1971, and prior to September 19, 1978, which have a heat input greater than 73 megawatts but not greater than 250 megawatts

Note: Fossil fuel fired steam generators with heat input greater than 250 megawatts are governed by the energy facility site evaluation council (EFSEC) in Title 463 WAC.

Subpart Da Electric utility steam generating units for which construction commenced after September 18, 1978, which have a heat input greater than 73 megawatts but not greater than 250 megawatts

Note: Fossil fuel fired steam generators with heat input greater than 250 megawatts are governed by the energy facility site evaluation council (EFSEC) in Title 463 WAC.

Subpart Db Industrial-commercial-institutional steam generating units for which construction commenced after June 19, 1984, and prior to June 19, 1986, which have a heat input greater than 29 megawatts but less than 73 megawatts

Subpart Dc Small industrial-commercial-institutional steam generating units

Subpart E Incinerators

Subpart Ea Municipal waste combustors for which construction is commenced after December 20, 1989, and on or before September 20, 1994

Subpart Eb Municipal waste combustors for which construction is commenced after September 20, 1994

Subpart Ec Hospital/Medical/Infectious Waste Incinerators for which construction is commenced after June 20, 1996

Note: For Hospital/Medical/Infectious Waste Incinerators for which construction commenced before June 20, 1996, see WAC 173-400-070(10).

Subpart F Portland cement plants

Subpart G Nitric acid plants

Subpart H Sulfuric acid plants

Subpart I Asphalt concrete plants

Subpart J Petroleum refineries which produce less than 25,000 barrels per day of refined products

Subpart K Storage vessels for petroleum liquid constructed after June 11, 1973, and prior to May 19, 1978, which have a capacity greater than 40,000 gallons

Subpart Ka Storage vessels for petroleum liquids constructed after May 18, 1978, which have a capacity greater than 40,000 gallons

EXPEDITED ADOPTION

Subpart Kb	Volatile organic liquid storage vessels (including petroleum liquid storage vessels) constructed, reconstructed, or modified after July 23, 1984	Subpart UU	Asphalt processing and asphalt roofing manufacture
Subpart L	Secondary lead smelters	Subpart VV	<u>((SOCMI equipment leaks (VOC))) Equipment leaks of VOC in the synthetic organic chemicals manufacturing industry (SOCMI)</u>
Subpart M	Brass and bronze ingot production plants	Subpart WW	Beverage can surface coating operations
Subpart N	<u>((Iron and steel plants)) Primary emissions from basic oxygen process furnaces for which construction is commenced after June 11, 1973</u>	Subpart XX	Bulk gasoline terminals
Subpart Na	Secondary emissions from basic oxygen process steel making facilities	Subpart AAA	New residential wood heaters
Subpart O	Sewage treatment plants	Subpart BBB	Rubber tire manufacturing industry
Subpart P	Primary copper smelters	Subpart DDD	VOC emissions from the polymer manufacturing industry
Subpart Q	Primary zinc smelters	Subpart FFF	Flexible vinyl and urethane coating and printing
Subpart R	Primary lead smelters	Subpart GGG	Petroleum refineries - compressors and fugitive emission sources
Subpart S	Primary aluminum reduction plants	Subpart HHH	Synthetic fiber production facilities
Subpart T	Phosphate fertilizer industry: Wet process phosphoric acid plants	Subpart III	VOC emissions from SOCMI air oxidation unit processes
Subpart U	Phosphate fertilizer industry: Superphosphoric acid plants	Subpart JJJ	Petroleum dry cleaners
Subpart V	Phosphate fertilizer industry: Diammonium phosphate plants	Subpart KKK	Equipment leaks of VOC from onshore natural gas processing plants
Subpart W	Phosphate fertilizer industry: Triple superphosphate plants	Subpart LLL	Onshore natural gas processing; SO ₂ emissions
Subpart X	Phosphate fertilizer industry: Granular triple superphosphate storage facilities	Subpart NNN	VOC emissions from SOCMI distillation operations
Subpart Y	Coal preparation plants	<u>Subpart OOO</u>	<u>Nonmetallic mineral processing plants</u>
Subpart Z	Ferroalloy production facilities	Subpart PPP	Wool fiberglass insulation manufacturing plants
Subpart AA	Steel plants: Electric arc furnaces	Subpart QQQ	VOC emissions from petroleum refinery wastewater <u>((emissions)) systems</u>
Subpart AAa	Steel plants: Electric arc furnaces and argon-oxygen decarburization vessels	Subpart RRR	VOC emissions from synthetic organic chemical manufacturing industry <u>(SOCMI) reactor processes</u>
Subpart BB	Kraft pulp mills	Subpart SSS	Magnetic tape coating facilities
Subpart CC	Glass manufacturing plants	Subpart TTT	Industrial surface coating: Surface coating of plastic parts for business machines
Subpart DD	Grain elevators	Subpart UUU	Calciners and dryers in mineral industries
Subpart EE	Industrial surface coating: Metal furniture	Subpart VVV	Polymeric coating of supporting substrates facilities
Subpart GG	Stationary gas turbines	<u>Subpart WWW</u>	<u>Municipal Solid Waste Landfills that commenced construction, reconstruction or modification on or after May 30, 1991</u>
Subpart HH	Lime manufacturing plants		
Subpart KK	Lead-acid battery plants		
Subpart LL	Metallic mineral processing plants		
Subpart MM	Automobile and light duty truck surface coating operations		
Subpart NN	Phosphate rock plants		
Subpart PP	Ammonium sulfate manufacture		
Subpart QQ	Publication rotogravure printing		
Subpart RR	Pressure sensitive tape and label surface coating operations		
Subpart SS	Industrial surface coating: Large appliances		
Subpart TT	Industrial surface coating: Metal coils		

Note: See WAC 173-400-070(9) for Municipal Solid Waste Landfills constructed, reconstructed, or modified before May 30, 1991.

((Note: For fossil fuel fired steam generators referenced by Subpart D and Da above, units greater than 250 megawatts are governed by the energy facility site evaluation council (EFSEC) in Title 463-WAC.))



WSR 99-04-008
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed January 21, 1999, 4:21 p.m.]

Date of Adoption: October 30, 1998.

Purpose: The purpose of the new chapter is to revise policies and requirements for endorsements on teacher certificates.

Statutory Authority for Adoption: RCW 28A.305.130 (1) and (2), 28A.410.010, and 28A.150.220(4).

Adopted under notice filed as WSR 98-19-134 on September 23, 1998.

Changes Other than Editing from Proposed to Adopted Version: Two primary endorsements as well as several supporting endorsements, that were presented for adoption consideration were not adopted. Some knowledge and skills required for certain endorsements that were presented for adoption consideration were amended or deleted.

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 35, 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 35, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 21, 1999

Larry Davis

Executive Director

Chapter 180-82 WAC

CERTIFICATE ENDORSEMENTS AND ASSIGNMENT OF CERTIFICATED PERSONNEL

NEW SECTION

WAC 180-82-002 Authority. The authority for this chapter is chapter 28A.410 RCW which authorizes the state board of education to establish, publish, and enforce rules and regulations determining eligibility for the certification of personnel employed in the common schools of this state. This authority is supplemented by RCW 28A.305.130(5) which authorizes the state board of education to specify the types and kinds of certificates necessary for the several departments within the common schools and by RCW 28A.150.220(4) which authorizes the state board of education to adopt rules that implement and ensure compliance

with the basic program of education requirements of RCW 28A.150.250, 28A.150.260, and 28A.150.220 and such related basic program of education requirements as may be established by the state board of education.

NEW SECTION

WAC 180-82-004 Purposes. The purposes of this chapter are to:

(1) Establish policies for the assignment of certificated personnel within districts; and

(2) Establish policies and conditions for obtaining endorsements on teaching certificates.

ASSIGNMENT OF CERTIFICATED PERSONNEL

NEW SECTION

WAC 180-82-105 Assignment of classroom teachers within districts. In addition to holding teaching permits or certificates as required by WAC 180-16-220(2), the assignment of classroom teachers in the basic program of education shall comply with the following:

(1) Classroom teachers with standard or unendorsed continuing teacher certificates may be assigned to any grade or subject areas for which certification is required.

(2) Classroom teachers with initial, residency, endorsed continuing, or professional teacher certificates may be assigned only to the specified grades and specified subject areas stated as endorsements upon their respective certificates or permits.

(3) Classroom teachers with initial, residency, endorsed continuing, or professional teacher certificates who have an elementary education endorsement may be assigned to teach any subject in grades K-8.

(4) Any certificated teacher who has completed twenty-four quarter hours (sixteen semester hours) of academic study in a content area that will be offered in grades four through nine may be assigned to that course even if the teacher does not hold an endorsement in that area.

(5) Any certificated teacher may be assigned to a middle school or junior high school block program, which for the purpose of this section shall be defined as the same teacher assigned to teach two or more subject areas to the same group of students, if the teacher has an endorsement in one of the subject areas and has completed or will complete within one year nine quarter hours in each of the other subject areas.

(6) Upon determination by school districts that teachers have the competencies to be effective teachers in alternative settings, individuals with initial, residency, endorsed continuing, or professional teacher certificates who have completed provisional status with a school district under RCW 28A.405.220 may be assigned to teach in alternative schools.

(7) Any certificated teacher may be assigned to courses offered in basic education subject areas not included with the list of endorsements specified in WAC 180-79A-302.

(8) Any certificated teacher may be assigned to serve as a substitute classroom teacher at any grade level or in any subject area for a period not to exceed thirty consecutive school days in any one assignment.

(9) Any certificated person holding a limited certificate as specified in WAC 180-79A-230 or a vocational education certificate as specified in chapter 180-77 WAC may be assigned as per the provisions of such section or chapter.

(10) If a teacher is assigned to provide special education, then the district must also comply with WAC 392-172-200 and 392-172-202.

(11) For the purpose of this section, the term "specified subject areas" shall mean courses or classes with the same subject area title as specified by the classroom teachers endorsement and courses or classes which the board of directors of the district determines to substantially include the same subject area as the endorsement—e.g., a classroom teacher with a health endorsement may be assigned to any course, regardless of course title, which substantially includes health as the subject area.

(12) Exceptions to the assignment requirements of subsection (1) of this section must comply with WAC 180-82-110.

(13) School district compliance with this section shall be subject to the state staff review process specified in WAC 180-16-195(2).

NEW SECTION

WAC 180-82-110 Exceptions to classroom teacher assignment policy. Exceptions to the classroom teacher assignment policy specified in WAC 180-82-105 shall be limited to the following:

(1) Upon determination by school districts that teachers have the competencies to be effective teachers in areas other than their endorsed areas, individuals with initial, residency, endorsed continuing, or professional teacher certificates who have completed provisional status with a school district under RCW 28A.405.220 may be assigned to classes other than in their areas of endorsement. If teachers are so assigned, the following shall apply:

(a) A designated representative of the district and any such teacher so assigned shall mutually develop a written plan which provides for necessary assistance to the teacher, and which provides for a reasonable amount of planning and study time associated specifically with the out-of-endorsement assignment;

(b) Such teachers shall not be subject to nonrenewal or probation based on evaluations of their teaching effectiveness in the out-of-endorsement assignments;

(c) Such teaching assignments shall be approved by a formal vote of the local school board for each teacher so assigned; and

(d) The assignment of such teachers for the previous school year shall be reported annually to the state board of education by the employing school district as required by WAC 180-16-195. Included in the report shall be the number of teachers in out-of-endorsement assignments and the specific assistance being given to the teachers.

(2) Teachers with initial, residency, endorsed continuing, or professional teacher certificates who have not completed provisional status with a school district under RCW 28A.405.220 may be assigned to one out-of-endorsement assignment for a maximum of two periods (not more than

forty percent full-time equivalent) a day. Conditions described in subsection (1)(a) through (d) of this section shall apply to teachers so assigned.

(3) After August 31, 2000, a teacher who has completed twenty-four quarter credit hours (sixteen semester credit hours) of the required special education course work in WAC 180-82-360 shall be eligible for a waiver from the special education office which will allow that person to be employed as a special education teacher. The remaining credits and all endorsement requirements shall be completed within three years of service as a special education teacher. Teachers who hold certificates endorsed in special education or who have received waivers from the special education office prior to September 1, 2000, shall not be affected by the requirements of this subsection.

NEW SECTION

WAC 180-82-115 Superintendent of public instruction annual report to state board of education. The superintendent of public instruction annually shall submit to the state board of education a comprehensive report on the status of compliance by school districts with WAC 180-82-105. Such report, among other matters deemed important by the superintendent of public instruction, shall contain summary data regarding out-of-endorsement assignments pursuant to WAC 180-82-110 (1)(d).

NEW SECTION

WAC 180-82-120 Assignment of principals and vice-principals within districts. In addition to holding principal permits or certificates as required by WAC 180-16-220(2), the assignment of principals and vice-principals in the basic program of education shall comply with the following:

(1) Building administrators holding initial or provisional principals' certificates may serve only as principals or vice-principals for the grade levels stated in their endorsements with the following exceptions:

(a) Building administrators with grades K through 8 or preschool through 8 endorsements may serve as principals or vice-principals for grade levels preschool through 9.

(b) Building administrators with grades 7 through 12 endorsements may serve as principals or vice-principals for grade levels 4 through 12.

(c) Building administrators with initial or provisional certificates may be assigned to serve as substitute principals or vice-principals at any grade level for a period not to exceed thirty consecutive school days in any one assignment.

(2) Building administrators holding continuing or standard principals' certificates may be assigned to serve as a principal or vice-principal at any grade level.

NEW SECTION

WAC 180-82-125 Assignment of educational staff associates. No person shall be assigned within the basic program of education to serve in a specific educational staff associate role, as identified in WAC 180-79A-140, unless

such person holds a certificate or permit endorsed for such specific role.

NEW SECTION

WAC 180-82-130 Assignment of persons providing instruction of Braille to students. (1) No certificated school district employee shall be assigned to provide instruction of Braille to students who has not demonstrated competency with the grade two standard literary Braille code by:

- (a) Successful completion of the National Literary Braille Competency Test; or
- (b) Successful completion of the Braille competency test developed at Portland State University; or
- (c) Successful completion of any other test approved for use by the state board of education.

(2) No classified school district employee working under the supervision of a certificated school district employee, which certificated employee meets the requirement of subsection (1) of this section, may produce Braille material or provide instruction in the Braille code unless the employee has demonstrated competency with the grade two standard literary Braille code as provided under subsection (1) of this section.

(3) The state board shall establish a test review committee which shall be responsible for developing criteria to evaluate a test under subsection (1)(c) of this section. No test shall be considered for approval by the state board under subsection (1)(c) of this section unless it has been evaluated by the test review committee and a recommendation for approval or disapproval has been submitted to the board. At a minimum, the membership of the committee shall include persons representing:

- (a) National Federation of the Blind of Washington;
 - (b) Washington council of the blind;
 - (c) Association of education and rehabilitation of the blind and visually impaired of Washington;
 - (d) Washington instructional resource center for the visually impaired;
 - (e) Washington state school for the blind; and
 - (f) Office of the superintendent of public instruction.
- (4) A person who has met the requirement of subsection (1) of this section shall maintain their facility with the grade two standard literary Braille code by:
- (a) Completing ten hours every five years of continuing education; or
 - (b) Successful completion every five years of one of the tests under subsection (1) of this section.
- (5) This section shall take effect September 1, 1997.

TEACHING CERTIFICATE ENDORSEMENTS

NEW SECTION

WAC 180-82-200 Purpose of endorsement requirements. The purposes of the endorsement requirements in chapter 180-82 WAC are:

(1) To align requirements for endorsements with the state's learning goals and essential academic learning requirements;

(2) To maintain rigorous standards for obtaining endorsements; and

(3) To provide school districts with teachers who are able to demonstrate a positive impact on student learning.

NEW SECTION

WAC 180-82-201 Grade designations for endorsements obtained after August 31, 2000. In order to implement the state's reform legislation, schools are reorganizing by developmental levels, by benchmarks, by student performance, etc. Therefore, the designation of mandatory grade levels on certificates for assignment purposes, no longer appears appropriate. The state board of education does, however, wish to provide guidance to school districts in the placement of its certified staff and to colleges and universities in developing preparation programs by providing the following guidelines for grade and age designations:

- (1) Early childhood: Birth to third grade (age eight).
- (2) Elementary: Kindergarten (age five) to grade eight (age fourteen).
- (3) Middle level: Grade four (age nine) to grade nine (age fifteen).
- (4) Secondary: Grade five (age ten) to grade twelve (age eighteen).
- (5) All levels: Preschool (birth) to grade twelve (age eighteen).

NEW SECTION

WAC 180-82-202 Certificate endorsements. Teacher certificates shall be endorsed as follows:

- (1) **All levels:**
 - (a) Bilingual education, (supporting).
 - (b) Designated arts: Dance, (supporting).
 - (c) Designated arts: Drama, (supporting).
 - (d) Designated arts: Music: Choral, instrumental or general, (primary).
 - (e) Designated arts: Visual arts, (primary).
 - (f) Designated world languages, (primary and supporting).
 - (g) English as a second language, (supporting).
 - (h) Health/fitness, (primary).
 - (i) Library media, (primary and supporting).
 - (j) Reading, (primary and supporting).
 - (k) Special education, (primary).
- (2) **Early childhood education**, (primary and supporting).
- (3) **Elementary education**, (primary).
- (4) **Middle level**, (primary).
- (5) **Secondary level:**
 - (a) Designated science: Biology, (primary).
 - (b) Designated science: Chemistry, (primary).
 - (c) Designated science: Earth science, (primary).
 - (d) Designated science: Physics, (primary).
 - (e) Designated vocational/technical, (primary).
 - (f) English, (primary).
 - (g) English/language arts, (primary).
 - (h) History, (primary).
 - (i) Mathematics, (primary).

- (j) Science, (primary).
- (k) Social studies, (primary).
- (6) **Traffic safety.**

NEW SECTION

WAC 180-82-204 Endorsement requirements. (1) Candidates for all primary and supporting teaching endorsements shall complete college/university programs approved by the state board of education pursuant to chapter 180-78A WAC, which include methodology (See WAC 180-78A-264(5)) and field experience/internship (See WAC 180-78A-264(7)) for the first endorsement.

(2) Colleges and universities shall consider modifying program requirements for individuals adding endorsements, based on the individual's previous course work, student teaching/internship, an assessment of the individual's knowledge and skills in the area of the endorsement being sought and other related endorsement areas, and previous teaching experience. In cases where individuals are employed as teachers, the colleges and universities may allow the individual to complete field-based requirements for the endorsement within the confines of the individual's existing schedule.

(3) The state board of education shall approve teacher preparation programs for each endorsement program at Washington colleges and universities, pursuant to chapter 180-78A WAC.

(4) Candidates from out-of-state shall be required to present verification that they completed a state approved program (equivalent to a major) in a Washington endorsement area.

(5) Course work used to meet endorsement requirements must be completed through a regionally accredited college/university.

(6) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the course work required for the approved endorsement program.

(7) Nothing within this chapter precludes a college or university from adopting additional requirements as conditions for recommendation, by such college or university, to the superintendent of public instruction for a particular subject area endorsement.

NEW SECTION

WAC 180-82-210 Primary and supporting endorsements. (1) All endorsements obtained under the requirements in chapter 180-82 WAC shall be designated as either primary or supporting endorsements on teaching certificates.

(2) All candidates for teaching certificates shall be required to obtain a primary endorsement which shall require a minimum of forty-five quarter credit hours (thirty semester credit hours) of academic study (or its equivalent) in the endorsement area.

(3) Supporting endorsements shall require a minimum of twenty-four quarter credit hours (sixteen semester credit hours) of academic study (or its equivalent) in the endorsement area: *Provided*, That supporting endorsements for broad area endorsements shall require thirty quarter credit

hours (twenty semester credit hours) of academic study in the endorsement area.

(4) The state board of education or its designee may establish performance/competency criteria for obtaining an endorsement.

NEW SECTION

WAC 180-82-215 Implementation policies. (1) All teachers who obtain endorsements after August 31, 2000, shall meet the requirements in chapter 180-82 WAC: *Provided*, That colleges and universities may permit an individual accepted into programs on, or before, August 31, 2000, to obtain endorsements under the requirements in WAC 180-79A-300 through 180-79A-398, if the individual completes the endorsement program on, or before, August 31, 2003, and the college or university verifies endorsement program completion to the superintendent of public instruction on, or before, December 31, 2003: *Provided further*, That the state board of education or its designee may waive this requirement on a case-by-case basis.

(2) Teachers applying for a continuing or professional certificate after August 31, 2000, shall be required to obtain only one endorsement.

NEW SECTION

WAC 180-82-300 Bilingual education—All levels, (supporting). In order to obtain a supporting endorsement in bilingual education, the candidate shall have completed a primary endorsement in another endorsement area, shall have demonstrated proficiency in the English language, shall have completed a state approved preparation program in bilingual education which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Language acquisition theory.
- (2) Cross-cultural teaching and learning strategies.
- (3) Literacy development (reading, writing, listening, speaking).
- (4) History and theory of bilingual education.
- (5) Instructional strategies for bilingual education.
- (6) Demonstrated proficiency in a targeted foreign language.

NEW SECTION

WAC 180-82-304 Designated arts: Dance—All levels (supporting). In order to receive a supporting endorsement in designated arts: Dance, the candidate shall have completed a primary endorsement in another endorsement area, shall have completed a state approved preparation program in designated arts: Dance which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as

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twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below and shall have demonstrated a level of artistic and technical proficiency appropriate for his/her dance concentration. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Elements of dance.
- (2) Composition, improvisation, or choreography.
- (3) Dance science.
- (4) Dance production.
- (5) Social, cultural, and historical contexts and connections.
- (6) Equipment and facilities safety.

NEW SECTION

WAC 180-82-308 Designated arts: Drama—All levels, supporting. In order to receive a supporting endorsement in designated arts: Drama, the candidate shall have completed a primary endorsement in another endorsement area, shall have completed a state approved preparation program in designated arts: Drama which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Acting skills, including improvisational and script-based.
- (2) Theatrical design and construction.
- (3) Directing.
- (4) Stage management.
- (5) Analysis and criticism of both script and performances.
- (6) Equipment, materials, and facilities safety.

NEW SECTION

WAC 180-82-310 Designated arts: Choral, instrumental, or general music—All levels, primary. In order to receive a primary endorsement in designated arts: Choral, instrumental, or general music, the candidate shall have completed a state approved preparation program in designated arts: Choral, instrumental, or general music which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Performance in-depth study of instrument or voice.
- (2) Aural skills and analysis.
- (3) Composition and improvisation.

- (4) Performance repertory (e.g., instrumental, choral, solo, world music).
- (5) Technology.
- (6) Conducting.
- (7) Arranging.
- (8) Theory analysis of music literature.
- (9) Equipment and facilities safety.
- (10) Social, cultural, and historical contexts and connections.

NEW SECTION

WAC 180-82-312 Designated arts: Visual arts—All levels, primary. In order to receive a primary endorsement in designated arts: Visual arts, the candidate shall have completed a state approved preparation program in designated arts: Visual arts which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Skills and techniques in multiple media (e.g., painting, sculpture, drawing, computer, photography).
- (2) Composition and production using design principles.
- (3) Analysis and interpretation of art.
- (4) Social, cultural and historical contexts and connections.
- (5) Material, equipment, and facilities safety.

NEW SECTION

WAC 180-82-314 Designated science: Biology—Secondary, primary. In order to receive a primary endorsement in designated science: Biology, the candidate shall have completed a state approved preparation program in designated science: Biology which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Botany with lab.
- (2) Zoology with lab.
- (3) Genetics.
- (4) Microbiology or cellbiology with lab.
- (5) Chemistry with lab.
- (6) Ecology.
- (7) Evolution.
- (8) Lab safety, practice, and management.
- (9) Lab, inquiry-based experience.
- (10) Relationship of the concepts of science to contemporary, historical, technological, and societal issues.

NEW SECTION

WAC 180-82-316 Designated science: Chemistry—Secondary, primary. In order to receive a primary endorsement in designated science: Chemistry, the candidate shall have completed a state approved preparation program in designated science: Chemistry which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) General principles of chemistry with lab (i.e., inorganic, physical, and analytical).
- (2) Advanced study in organic chemistry with lab.
- (3) Quantitative analysis with lab.
- (4) Biochemistry with lab.
- (5) Physics.
- (6) Laboratory safety, practice, and management.
- (7) Lab, inquiry-based experience.
- (8) Relationship of the concepts of science to contemporary, historical, technological, and societal issues.

NEW SECTION

WAC 180-82-318 Designated science: Earth science—Secondary, primary. In order to receive a primary endorsement in designated science: Earth science, the candidate shall have completed a state approved preparation program in designated science: Earth science which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Physical geology.
- (2) Historical geology.
- (3) Environmental issues related to earth science.
- (4) Oceanography.
- (5) Astronomy.
- (6) Meteorology.
- (7) Lab safety, practice, and management.
- (8) Lab, inquiry-based experience.
- (9) Relationship of the concepts of science to contemporary, historical, technological, and societal issues.

NEW SECTION

WAC 180-82-320 Designated science: Physics—Secondary, primary. In order to receive a primary endorsement in designated science: Physics, the candidate shall have completed a state approved preparation program in designated science: Physics which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as forty-five quarter credit

hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) General principles of physics, with lab.
- (2) Lab safety, practice and management.
- (3) Lab, inquiry-based experience.
- (4) Relationships of the concepts of science to contemporary, historical, technological and societal issues.

NEW SECTION

WAC 180-82-322 Designated vocational/technical—Secondary, primary. In order to obtain a primary endorsement in designated vocational/technical: Agriculture education, business education, family and consumer sciences education, marketing education, or technology education, the candidate shall have completed a state approved preparation program pursuant to WAC 180-77A-170.

NEW SECTION

WAC 180-82-324 Designated world languages—All levels, primary. In order to receive a primary endorsement in designated world languages the candidate shall have completed a state approved preparation program in designated world languages which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Communication in the designated world language: Speaks, understands, reads, and writes in a variety of contexts with a variety of situations.
 - (2) Culture and language.
 - (a) Describes, analyzes, and interprets cultural and language practices, products, and perspectives.
 - (b) Analyzes similarities and differences between United States and designated language cultures (e.g., history, mores, traditions, celebrations, and community context).
 - (c) Participates in designated world language community.
 - (3) Interdisciplinary integration (e.g., world languages and educational technology, selected areas in social studies, in language arts and any other suitable area).
 - (4) A variety of language acquisition theories.
 - (5) Appropriate methodological study for all levels, including but not limited to, FLES strategies and skills.

NEW SECTION

WAC 180-82-326 Designated world languages—All levels, supporting. In order to receive a supporting endorsement in designated world languages, the candidate shall have completed a primary endorsement in another endorsement area, shall have completed a state approved preparation pro-

gram in designated world languages which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Communication in the designated world language: Speaks, understands, reads, and writes in a variety of contexts with a variety of situations.
- (2) Culture and language.
 - (a) Describes, analyzes, and interprets cultural and language practices, products, and perspectives.
 - (b) Analyzes similarities and differences between United States and designated language cultures (e.g., history, mores, traditions, celebrations, and community context).
 - (c) Participates in designated world language community.
- (3) Interdisciplinary integration (e.g., world languages and educational technology, selected areas in social studies, in language arts and any other suitable area).
- (4) A variety of language acquisition theories.

NEW SECTION

WAC 180-82-328 Early childhood education—Primary. In order to obtain a primary endorsement in early childhood education, the candidate shall have completed a state approved preparation program in early childhood education which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Dynamics of family structure and involving parents and community agencies in early childhood development.
- (2) Curriculum, instruction, and assessment in the following:
 - (a) Communication skills, emerging literacy, and language arts.
 - (b) Math and science.
 - (c) Social studies.
 - (d) Arts.
 - (i) Art.
 - (ii) Music.
 - (iii) Drama.
 - (iv) Creative movement/dance.
 - (e) Health/fitness.
- (3) Typical and atypical growth and development (cognitive, linguistic, motor, and social).
- (4) Assessment methods designed to measure developmental progress.
- (5) Knowledge of requirements for promoting social competence.

(6) Knowledge of exceptionalities and identification of high risk and special needs students, and methods of modifying curriculum, instructional strategies and assessment.

(7) Strategies for environmental design and management of physical space, equipment, and material.

(8) Current issues and trends in early childhood education.

NEW SECTION

WAC 180-82-330 Early childhood education—Supporting. In order to obtain a supporting endorsement in early childhood education the candidate shall have completed a primary endorsement in elementary education or special education, shall have completed a state approved preparation program in early childhood education, and shall have completed twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Dynamics of family structure and involving parents and community agencies in early childhood development.
- (2) Curriculum, instruction, and assessment in the following:
 - (a) Communication skills, emerging literacy, and language arts.
 - (b) Math and science.
 - (c) Social studies.
 - (d) The arts.
 - (i) Visual arts.
 - (ii) Music.
 - (iii) Drama.
 - (iv) Creative movement/dance.
 - (e) Health/fitness.
- (3) Typical and atypical growth and development (cognitive, linguistic, motor, and social) and assessment methods.
- (4) Strategies for environmental design and management of physical space, equipment, and material.
- (5) Knowledge of requirements for promoting social competence.
- (6) Current issues and trends in early childhood education.

NEW SECTION

WAC 180-82-332 Elementary education—Primary. In order to receive a primary endorsement in elementary education, the candidate shall have completed a state approved preparation program in elementary education which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78 WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas listed below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills at the developmentally appropriate levels in the following areas:

- (1) Language literacy.
 - (a) Reading strategies.
 - (b) The writing process.
 - (c) Communication.
 - (d) Language skills.
 - (e) Child and adolescent literature.
- (2) Mathematics.
 - (a) Number sense.
 - (b) Measurement.
 - (c) Geometric sense.
 - (d) Probability and statistics.
 - (e) Algebraic sense.
- (3) Science. Life and physical science, including a lab science.
 - (4) Social studies.
 - (a) U.S. history.
 - (b) Geography.
 - (c) Economics.
 - (d) Civics.
 - (5) The arts.
 - (a) Music.
 - (b) Visual arts.
 - (c) Drama.
 - (d) Creative movement/dance.
 - (6) Health/fitness.
 - (a) Foundations of health and fitness.
 - (b) Safe living.

NEW SECTION

WAC 180-82-334 English—Secondary, primary. In order to receive a primary endorsement in English the candidate shall have completed a state approved preparation program in English which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) The reading process (e.g., skills and strategies).
- (2) The writing process (e.g., expository, technical, narrative).
- (3) Communication (e.g., speaking, listening, and analyzing).
- (4) Language skills (conventions) and structure (social/historical).
- (5) Literature (e.g., American, British, world, and multicultural).

NEW SECTION

WAC 180-82-336 English/language arts—Secondary, primary. In order to receive a primary endorsement in English/language arts the candidate shall have completed a state approved preparation program in English/language arts which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as sixty quarter credit hours (forty

semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) The reading process (e.g., skills and strategies).
- (2) The writing process (e.g., expository, technical, narrative).
- (3) Communication (e.g., speech, listening, media analysis, acting, journalism).
- (4) Language skills (conventions) and structure (social/historical).
- (5) American, British, world, multicultural, and adolescent literature, including representation from the following genre: Poetry, drama, fiction, nonfiction, and technical materials.

NEW SECTION

WAC 180-82-339 English as a second language—All levels, supporting. In order to obtain a supporting endorsement in English as a second language, the candidate shall have completed a primary endorsement in another endorsement area, shall have demonstrated proficiency in the English language, shall have completed a state approved preparation program in English as a second language which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Language acquisition theory.
- (2) Cross-cultural teaching and learning strategies.
- (3) Literacy development (reading, writing, listening, speaking).
- (4) History and theory of ESL.
- (5) Instructional strategies for ESL.

NEW SECTION

WAC 180-82-342 Health/fitness—All levels, primary. In order to receive a primary endorsement in health/fitness the candidate shall have completed a state approved preparation program in health/fitness which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Foundations of health and fitness
- (2) Safe living, including first aid and CPR.
- (3) Scientific foundations for health and fitness (i.e., anatomy exercise physiology, kinesiology/biomechanics,

psychomotor maturation and development, and motor learning).

(4) Movement, activities, and application with attention to special needs populations.

(5) Coordinated health education (i.e., alcohol and other drugs, diseases, injury prevention, human relationships, nutrition, HIV prevention, and abuse prevention).

NEW SECTION

WAC 180-82-343 History—Secondary, primary. In order to receive a primary endorsement in history the candidate shall have completed a state approved preparation program in history which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Pacific Northwest history.
- (2) United States history, including chronological, thematic, multicultural, ethnic, and women's history.
- (3) World, regional, or country history.
- (4) Civics/political science/United States government.
- (5) Geography.
- (6) Economics.

NEW SECTION

WAC 180-82-344 Library media—All levels, primary. In order to receive a primary endorsement in library media, the candidate shall have completed a state approved preparation program in library media which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Integration of information technologies with essential academic learnings.
- (2) Needs assessment, evaluation, and selection of diverse literature, media (print, nonprint, and electronic), and information services for children and young adults.
- (3) Understanding and utilization of existing and emerging information technologies.
- (4) Media (print, nonprint and electronic) literacy-methods and instruction.
- (5) Research and library applications in the curriculum.
- (6) Social, ethical, and legal implications of information technologies.
- (7) Management of library media program-services and facilities.
- (8) Theories and accepted principles of standardized systems of cataloguing, process, and classification.

NEW SECTION

WAC 180-82-346 Library media—All levels, supporting. In order to receive a supporting endorsement in library media, the candidate shall have completed a primary endorsement in elementary education or middle level, shall have completed a state approved preparation program in library media which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Integration of information technologies with essential academic learnings.
- (2) Needs assessment, evaluation, and selection of diverse literature, media (print, nonprint, and electronic), and information services for children and young adults.
- (3) Understanding and utilization of existing and emerging information technologies.
- (4) Social, ethical and legal implications of information technologies.
- (5) Management of library media program-services and facilities.
- (6) Theories and accepted principles of standardized systems of cataloguing, process, and classification.

NEW SECTION

WAC 180-82-348 Mathematics—Secondary, primary. In order to receive a primary endorsement in mathematics, the candidate shall have completed a state approved preparation program in mathematics which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Geometry (Euclidean and non-Euclidean).
- (2) Probability and statistics.
- (3) Calculus (integral and differential).
- (4) Discrete mathematics.
- (5) Logic and problem solving.
- (6) History of math or foundations of math.

NEW SECTION

WAC 180-82-350 Middle level, primary. In order to obtain an endorsement in middle level, the candidate shall have completed a state approved preparation program in middle level which shall be comprised of the developmentally appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below:

(1) A primary area comprised of thirty quarter credit hours (twenty semester credit hours) in either:

(a) Humanities, including a minimum of ten quarter credit hours (six semester credit hours) from language arts and ten quarter credit hours (six semester credit hours) from social studies with the remaining credit hours taken from language arts and/or social studies to total thirty quarter credit hours (twenty semester credit hours); or

(b) Math-science, including a minimum of ten quarter credit hours (six semester credit hours) from math and ten quarter credit hours (six semester credit hours) from science with the remaining credit hours taken from math and/or science to total thirty quarter credit hours (twenty semester credit hours); and

(2) A supporting area comprised of fifteen quarter credit hours (ten semester credit hours) from one of the following:

(a) Humanities (available only to candidates whose primary area is math-science); or

(b) Math-science (available only to candidates whose primary area is humanities); or

(c) Designated arts; or

(d) Vocational-technical; or

(e) Designated world languages; or

(f) Health/fitness.

NEW SECTION

WAC 180-82-352 Reading—All levels, primary. In order to receive a primary endorsement in reading/literacy the candidate shall have completed a state approved preparation program in reading which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

(1) Assessment and diagnosis of reading skills and deficiencies.

(2) Strategies of how to teach reading.

(a) Scientifically validated research-based instructional strategies.

(b) Developmental stages/theories of reading.

(c) Philosophy of reading.

(3) Language acquisition/integration.

(4) Social/cultural contexts for literacy.

(5) Reading process, including decoding, encoding, and student response to child and adolescent literature.

(6) Beginning literacy (reading, writing, spelling, and communication).

(7) Reading in the content areas, fiction and nonfiction, including, but not limited to, enriched literature and expository text in the content areas.

(8) Literacy for a second language learner.

(9) Meta-cognitive strategies (teaching children to self-assess their reading ability).

(10) Risk factors for reading difficulties and intervention strategies for students experiencing reading difficulties.

NEW SECTION

WAC 180-82-354 Reading—All levels, supporting. In order to receive a supporting endorsement in reading the candidate shall have completed a primary endorsement in another endorsement area, shall have completed a state approved preparation program in reading, which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, and shall have completed twenty-four quarter credit hours (sixteen semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

(1) Assessment and diagnosis of reading skills and deficiencies.

(2) Language acquisition/integration.

(3) Social/cultural contexts for literacy.

(4) Beginning literacy (reading, writing, spelling, and communication).

(5) Reading in the content areas, fiction and nonfiction, including, but not limited to, enriched literature and expository text in the content areas.

NEW SECTION

WAC 180-82-355 Science—Secondary, primary. In order to receive a primary endorsement in science the candidate shall have completed a state approved preparation program in science which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as sixty quarter credit hours (forty semester credit hours) in the subject areas below, as follows:

(1) Forty-five quarter credit hours (thirty semester credit hours) in a designated science area (biology, chemistry, earth science, or physics), including all the requirements for the endorsement in that area; and

(2) Fifteen quarter credit hours (ten semester credit hours) from the remaining three science areas, including course work from each of those three areas.

NEW SECTION

WAC 180-82-356 Social studies—Secondary, primary. In order to receive a primary endorsement in social studies the candidate shall have completed a state approved preparation program in social studies which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as sixty quarter credit hours (forty semester credit hours) in the subject areas below, including twenty-four quarter credit hours (sixteen semester credit hours) in history. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

(1) Pacific Northwest history.

- (2) United States history, including chronological, thematic, multicultural, ethnic and women's history.
- (3) World, regional, or country history.
- (4) Geography.
- (5) Political science, civics, or government.
- (6) Anthropology, psychology, or sociology.
- (7) Economics.

NEW SECTION

WAC 180-82-360 Special education—All levels, primary. (See WAC 180-82-110(3) for information regarding eligibility for a waiver for a candidate who may be assigned to a special education classroom, if he or she has completed twenty-four quarter credit hours (sixteen semester credit hours) of the course work specified below.) In order to receive a primary endorsement in special education, the candidate shall have completed a state approved preparation program in special education which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Exceptionality-defined as an overview of all disabling conditions, including low to high incidence disabling.
- (2) Curriculum modification and adaptation (including modifying the essential academic learning requirements), accommodations, special aids, technology, and equipment.
- (3) Least restrictive environment/inclusion strategies for special education.
- (4) Student assessment and evaluation.
 - (a) Functional behavior analysis.
 - (b) Individualized education plan/individualized family services plan development.
 - (c) Accommodations for the Washington assessment of student learning.
- (5) Procedural and substantive legal issues in special education.
- (6) Specially designed instruction including curriculum materials in all content areas.
- (7) Effective procedures and strategies for teaching pro-social skills and addressing behavioral problems.
- (8) School, family, community partnerships to improve learning for students with disabilities and their families (understanding and applying) knowledge of family systems including cultural and linguistic diversity).
- (9) Transition planning for new settings including planning post school outcomes.
- (10) Organization and management systems (i.e., individualized education plan/individualized family services plan, scheduling, evaluation, and recordkeeping/data collection).
- (11) Methods, issues and trends in early childhood education.
- (12) Collaboration, teaming, partnerships, and supervision of paraeducators.

WSR 99-04-016
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed January 22, 1999, 3:03 p.m.]

Date of Adoption: January 22, 1999.

Purpose: This rule explains the basis and requirements for the property tax exemption, both partial and total, available to homes for the aging under RCW 84.36.041. The rule has been amended in response to a request from Washington Association of Housing and Services for the Aging about the set-aside requirements relating to the refinancing of tax exempt bonds and the unintended results of the set-aside requirements in the current rule. The amendments to this rule establish that a home initially financed by and granted exemption because of tax exempt bond financing will retain the same set-aside requirements for low-income residents if they refinance the original bond issue.

Citation of Existing Rules Affected by this Order: Amending WAC 458-16A-010 Nonprofit homes for the aging.

Statutory Authority for Adoption: RCW 84.36.041 and 84.36.865.

Adopted under notice filed as WSR 98-24-116 on December 2, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 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 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 22, 1999

Russell W. Brubaker, Assistant Director
 Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 95-06-041, filed 2/24/95, effective 3/27/95)

WAC 458-16A-010 Nonprofit homes for the aging.

(1) **Introduction.** Under RCW 84.36.041, a nonprofit home for the aging may be totally or partially exempt from property tax. This section explains the exemptions allowed and the criteria that must be met in order to receive an exemption under this statute. Throughout this section, all requirements will pertain to all types of homes for the aging including, but not limited to, adult care homes, assisted living facilities, continuing care retirement communities (CCRC), and independent housing, unless a particular type of home is separately identified.

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(2) **Definitions.** For purposes of this section, the following definitions apply:

(a) "Acquisition" means that an existing home for the aging (or home) currently in operation is acquired by a non-profit organization and the ownership of the facility will change as a result of a purchase, gift, foreclosure, or other method.

(b) "Assistance with activities of daily living" means the home provides, brokers, or contracts for the provision of auxiliary services to residents, such as meal and housekeeping service, transportation, ambulatory service, and attendant care including, but not limited to, bathing and other acts related to personal hygiene, dressing, shopping, food preparation, monitoring of medication, and laundry services.

(c) "Combined disposable income" means the disposable income of the person submitting the income verification form, plus the disposable income of his or her spouse, and the disposable income of each cotenant occupying the dwelling unit for the preceding calendar year, less amounts paid by the person submitting the income verification form or his or her spouse or cotenant during the previous year for the treatment or care of either person received in the dwelling unit or in a nursing home.

(i) If the person submitting the income verification form was retired for two months or more of the preceding calendar year, the combined disposable income of the person will be calculated by multiplying the average monthly combined disposable income of the person during the months the person was retired by twelve.

(ii) If the income of the person submitting the income verification form is reduced for two or more months of the preceding calendar year (~~by reason~~) because of the death of the person's spouse, the combined disposable income of the person will be calculated by multiplying the average monthly combined disposable income of the person after the death of the spouse by twelve.

(d) "Complete and separate dwelling units" means that the individual units of a home contain complete facilities for living, sleeping, cooking, and sanitation.

(e) "Construction" means the actual construction or building of all or a portion of a home that did not exist prior to the construction.

(f) "Continuing care retirement community" or "CCRC" means an entity that provides shelter and services under continuing care contracts with its residents or includes a health care facility or health service.

(g) "Continuing care contract" means a contract to provide a person, for the duration of that person's life or for a term in excess of one year, shelter along with nursing, medical, health-related or personal care services, that is conditioned upon the transfer of property, the payment of an entrance fee to the provider of the services, and/or the payment of periodic charges in consideration for the care and services provided. A continuing care contract is not excluded from this definition because the contract is mutually terminable or because shelter and services are not provided at the same location.

(h) "Cotenant" means a person who resides with an eligible resident and who shares personal financial resources with the eligible resident.

(i) "Disposable income" means adjusted gross income as defined in the federal Internal Revenue Code, as amended prior to January 1, 1994, plus all of the following items to the extent they are not included in or have been deducted from adjusted gross income:

(i) Capital gains, other than nonrecognized gain on the sale of a principal residence under section 1034 of the federal Internal Revenue Code, or gain excluded from income under section 121 of the federal Internal Revenue Code to the extent it is reinvested in a new principal residence;

(ii) Amounts deducted for loss;

(iii) Amounts deducted for depreciation;

(iv) Pension and annuity receipts;

(v) Military pay and benefits other than attendant-care and medical-aid payments;

(vi) Veterans benefits other than attendant-care and medical-aid payments;

(vii) Federal Social Security Act and railroad retirement benefits;

(viii) Dividend receipts; and

(ix) Interest received on state and municipal bonds.

(j) "Eligible resident" means a person who:

(i) Occupied the dwelling unit as a principal place of residence as of January 1st of the year in which the claim for exemption is filed. The exemption will not be nullified if the eligible resident is confined to a hospital or nursing home and the dwelling unit is temporarily unoccupied or occupied by a spouse, a person financially dependent on the claimant for support, or both;

(ii) Is sixty-one years of age or older on December 31st of the year in which the claim for exemption is filed, or is, at the time of filing, retired from regular gainful employment by reason of physical disability. A surviving spouse of a person who was receiving an exemption at the time of the person's death will qualify for this exemption if the surviving spouse is fifty-seven years of age or older and otherwise meets the requirements of this subsection; and

(iii) Has a combined disposable income that is no more than the greater of twenty-two thousand dollars or eighty percent of the median income adjusted for family size as determined by the federal Department of Housing and Urban Development (HUD) for the county in which the person resides and in effect as of January 1 of the year the application for exemption is submitted.

(k) "Home for the aging" or "home" means a residential housing facility that:

(i) Provides a housing arrangement chosen voluntarily by the resident, the resident's guardian or conservator, or another responsible person;

(ii) Has only residents who are at least sixty-one years of age or who have needs for care generally compatible with persons who are at least sixty-one years of age; and

(iii) Provides varying levels of care and supervision, as agreed to at the time of admission or as determined necessary at subsequent times of reappraisal.

(l) "HUD" means the federal Department of Housing and Urban Development.

(m) "Local median income" means the median income adjusted for family size as most recently determined by HUD for the county in which the home is located and in effect on

January 1st of the year the application for exemption is submitted.

(n) "Low income" means that the combined disposable income of a resident is eighty percent or less of the median income adjusted for family size as most recently determined by HUD for the county in which the home is located and in effect as of January 1st of the year the application for exemption is submitted.

(o) "Occupied dwelling unit" means a living unit that is occupied on January 1st of the year in which the claim for exemption is filed.

(p) "Property that is reasonably necessary" means all property that is:

- (i) Operated and used by a home; and
- (ii) The use of which is restricted to residents, guests, or employees of a home.

(q) "Refinancing" means the discharge of an existing debt with funds obtained through the creation of new debt. For purposes of this section, even if the application for tax exempt bond financing to refinance existing debt is treated by the financing agent as something other than refinancing, an application for a property tax exemption because of refinancing by tax exempt bonds will be treated as refinancing and the set-asides specific to refinancing will be applied. "Refinancing" shall include tax exempt bond financing in excess of the amount of existing debt that is obtained to modify, improve, restore, extend, or enlarge a facility currently being operated as a home.

(r) "Rehabilitation" means that an existing building or structure, not currently used as a home, will be modified, improved, restored, extended, or enlarged so that it will be used as a home for elderly and disabled individuals. A project will be considered a rehabilitation if the costs of rehabilitation exceed five thousand dollars. If a home has acquired tax exempt bond financing and does not meet the definition of "rehabilitation" contained in this subsection, the home may be eligible for a total exemption under the "refinancing" definition and if it meets the "refinancing" set-aside requirements. If such a home is not eligible for a total exemption, the department will determine the home's eligibility for a partial exemption in accordance with the pertinent parts of RCW 84.36.041 and this section.

(s) "Set-aside(s)" means the percentage of dwelling units reserved for low-income residents when the construction, rehabilitation, acquisition, or refinancing of a home is financed under a financing program using tax exempt bonds.

(t) "Shared dwelling units" or "shared units" means individual dwelling units of a home that do not contain complete facilities for living, eating, cooking, and sanitation.

(u) "Taxable value" means the value of the home upon which the tax rate is applied in order to determine the amount of property taxes due.

(v) "Total amount financed" means the total amount of financing required by the home to fund construction, acquisition, rehabilitation, or refinancing. Seventy-five percent of this amount must be supplied by tax exempt bonds to receive the total exemption from property tax available under the tax exempt bond financing provision of RCW 84.36.041.

(3) **General requirements.** To be exempt under this section, a home for the aging must be:

(a) Exclusively used for the purposes for which exemption is granted, except as provided in RCW 84.36.805;

(b) Operated by an organization that is exempt from income tax under section 501(c) of the federal Internal Revenue Code; and

(c) The benefit of the exemption must inure to the home.

(4) **Total exemption.** There are three ways in which a home may be totally exempt from property tax. All real and personal property used by a nonprofit home that is reasonably necessary for the purposes of the home is exempt if it meets the general requirements listed in subsection (3) of this section and:

(a) At least fifty percent of the occupied dwelling units in the home are occupied by eligible residents;

(b) The home is subsidized under a HUD program; or

(c) The construction, rehabilitation, acquisition, or refinancing of a home is financed under a program using bonds exempt from federal income tax if at least seventy-five percent of the total amount financed uses tax exempt bonds and the financing program requires the home to reserve or set-aside a percentage of all dwelling units so financed for low-income residents. See subsections (5), (6), and (7) of this section for tax exempt bond requirements and the percentage of units that must be set-aside for low-income residents in order for the home to be totally exempt.

(5) **Homes or CCRCs financed by tax exempt bonds—Generally.** All real and personal property used by a nonprofit home or CCRC may be totally exempt from property tax if at least seventy-five percent of the total amount financed for construction, rehabilitation, acquisition, or refinancing uses tax exempt bonds and the financing program requires the home or CCRC to reserve or set-aside a percentage of all dwelling units so financed for low-income residents.

(a) The percentage of set-aside units required will vary depending on whether the home is a CCRC, the purpose for which the tax exempt bond financing was obtained, the type of dwelling unit, and the receipt of Medicaid funds. The set-aside requirements for homes are set forth in subsection (6) of this section and for CCRCs are set forth in subsection (7) of this section.

(b) The exemption will be granted in direct correlation between the total amount financed by tax exempt bonds and the portion of the home or CCRC that is constructed, acquired, rehabilitated, or refinanced by tax exempt bonds.

(c) If tax exempt bonds are used for refinancing, the set-aside requirements set forth in subsections (6) and (7) of this section will be applied to the actual area or portion of the home or CCRC to which the bonds correspond.

(i) Example 1. A CCRC (that accepts Medicaid funds) is composed of a multistory building, six duplexes, and two independent homes and the CCRC has secured tax exempt bonds to satisfy an existing mortgage on the multistory building. Only the multistory building will be considered eligible for a total exemption from property tax because of tax exempt bond financing. To receive the exemption, at least twenty percent of the dwelling units of the multistory building must be set-aside for residents at or below fifty percent of the local median income or at least forty percent of the dwelling units

must be set-aside for residents at or below sixty percent of the local median income.

(ii) Example 2. A home obtains tax exempt bonds to refinance a portion of the home and to fund construction. The department will separately consider the area of the home that corresponds to the purpose for which the tax exempt bonds were obtained. The set-aside requirements related to refinancing will be applied to the portion of the home that corresponds to the mortgage being refinanced and the set-aside requirements related to construction will be applied to the area of the home to be newly constructed. The department will determine the eligibility for partial exemption of the remainder of the home that is not being refinanced or constructed.

(d) If a total exemption is granted under the tax exempt bond financing provision, the total exemption will remain in effect as long as:

- (i) The home or CCRC remains in compliance with the requirements under which it received the tax exempt bonds;
- (ii) The tax exempt bonds are outstanding; and
- (iii) The set-aside requirements are met.

(e) If a home or CCRC has obtained tax exempt bond financing to modify, improve, restore, extend, or enlarge its existing facility and the project does not meet the definition of rehabilitation contained in subsection (2) of this section, the project will not be considered a rehabilitation and the set-aside requirements related to refinancing or acquisition will be applied in determining eligibility for a total exemption.

(f) When a home or CCRC no longer meets the criteria for exemption under the tax exempt bond financing portion of the statute, eligibility for exemption under RCW 84.34.041 will be determined by the other provisions of the statute. In other words, a home may receive a total or partial exemption depending on the number of residents who are deemed to be "eligible residents" or who require "assistance with activities of daily living." For example, if a home that previously received a total exemption due to the receipt of tax exempt bond financing has one hundred dwelling units and sixty of those dwelling units are occupied by eligible residents, the home may receive a total exemption.

(6) **Set-aside requirements related to homes and tax exempt bond financing.** A specified number of dwelling units within a home must be set-aside for low income residents to obtain a total property tax exemption because of tax exempt bond financing. The set-aside requirements for homes will be determined according to the type of dwelling units contained in the home and the purpose for which the tax exempt bond financing was obtained. The provisions of this section do not apply to CCRCs. The specific set-aside requirements for CCRCs are described in subsection (7) of this section.

~~((a) Complete and separate dwelling units—construction or rehabilitation. If financing was obtained for the construction or rehabilitation of a home with any complete and separate units, the following set-asides will apply:~~

~~(i) Ten percent of the total dwelling units financed must be set aside for residents with incomes at or below eighty percent of the local median income; and~~

~~(ii) Ten percent of the total dwelling units must be set aside for residents at or below fifty percent of the local median income.~~

~~(b) Complete and separate dwelling units—acquisition or refinancing. If financing was obtained to acquire or refinance a home with any complete and separate units, the following set-asides will apply:~~

~~(i) Twenty percent of the total dwelling units financed must be set aside for residents with incomes at or below fifty percent of the local median income; or~~

~~(ii) Forty percent of the total dwelling units must be set aside for residents at or below sixty percent of the local median income.~~

~~(c) Shared dwelling units—construction, rehabilitation, acquisition, or refinancing. If financing was obtained for the construction, rehabilitation, acquisition, or refinancing of a home with only shared units, the following set-asides apply:~~

~~(i) Ten percent of the total dwelling units financed must be set aside for residents with incomes at or below eighty percent of the local median income; and~~

~~(ii) Ten percent of the total dwelling units must be set aside for residents at or below fifty percent of the local median income.)) A home must meet the following set-aside requirements to be totally exempt from property tax:~~

<u>PURPOSE OF BOND FINANCING</u>	<u>TYPE OF DWELLING UNIT</u>	<u>SET-ASIDE REQUIREMENTS</u>
<u>New construction or Rehabilitation</u>	<u>Complete Separate units</u>	<u>10% of total units set-aside for residents at or below 80% of local median income and 10% of total units set-aside for residents at or below 50% of local median income</u>
<u>Acquisition or Refinancing of dwelling units currently satisfying 10% and 10% set-aside requirements</u>	<u>Complete Separate units</u>	<u>10% of total units set-aside for residents at or below 80% of local median income and 10% of total units set-aside for residents at or below 50% of local median income</u>

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<u>PURPOSE OF BOND FINANCING</u>	<u>TYPE OF DWELLING UNIT</u>	<u>SET-ASIDE REQUIREMENTS</u>
<u>Acquisition or Refinancing of dwelling units not currently satisfying 10% and 10% set-aside requirements</u>	<u>Complete Separate units</u>	<u>20% of total units set-aside for residents at or below 50% of local median income or 40% of total units set-aside for residents at or below 60% of local median income</u>
<u>Acquisition, New Construction, Refinancing, or Rehabilitation</u>	<u>Shared units</u>	<u>10% of total units set-aside for residents at or below 80% of local median income and 10% of total units set-aside for residents at or below 50% of local median income</u>

(7) **Set-aside requirements related to CCRCs and tax exempt bond financing.** A specified number of dwelling units of a CCRC must be set-aside for low income residents to obtain a total property tax exemption because of tax exempt bond financing. The set-aside requirements for CCRCs will be determined by whether the CCRC does or does not have Medicaid contracts for continuing care contract residents and the purpose for which the tax exempt bond financing was obtained. The provisions of this section do not apply to other homes. The specific set-aside requirements for other homes are described in subsection (6) of this section.

(a) The continuing care contract between the resident and the CCRC is a contract to provide shelter along with nursing, medical, health-related or personal care services to the resident for the duration of the resident's life or for a term in excess of one year. A resident's tenancy may not be terminated due to inability of the resident to fully pay the monthly service fee when the resident establishes facts to justify a waiver or reduction of these charges. This provision shall not apply if the resident, without the CCRC's consent, has impaired his and/or her ability to meet financial obligations required by the continuing care contract due to a transfer of assets, after signing the continuing care contract, other than to meet ordinary and customary living expenses, or by incurring unusual or unnecessary new financial obligations.

(b) A CCRC without Medicaid contracts for continuing care contract residents may not receive Medicaid funds from Washington state or the federal government during the term that the bonds are outstanding, except during the initial transition period as allowed by state law or if the regulatory agreement with the tax exempt bond financier exempts the CCRC from compliance with this requirement.

(c) ~~The following set-aside requirements must be met by CCRCs not receiving Medicaid funds (including CCRCs that are permitted to receive Medicaid funds during an initial transition period only) ((--construction or rehabilitation. If financing was obtained for the construction or rehabilitation of a CCRC without Medicaid contracts for continuing care contract residents, the following set-asides apply:~~

~~(i) Ten percent of the total dwelling units financed must be set aside for residents with incomes at or below eighty percent of the local median income; and~~

~~(ii) Fifteen percent of the total dwelling units must be set aside for residents at or below one hundred percent of the local median income.~~

~~(d) CCRCs not receiving Medicaid funds (including CCRCs that are permitted to receive Medicaid funds during an initial transition period only) -- acquisition or refinancing. If financing was obtained to acquire a CCRC or to refinance a CCRC without Medicaid contracts for continuing care contract residents, the following set-asides apply:~~

~~(i) Twenty percent of the total dwelling units financed must be set aside for residents with incomes at or below fifty percent of the local median income; or~~

~~(ii) Forty percent of the total dwelling units must be set aside for residents at or below sixty percent of the local median income.)) to receive a total exemption:~~

<u>PURPOSE OF BOND FINANCING</u>	<u>SET-ASIDE REQUIREMENTS</u>
<u>New construction or Rehabilitation</u>	<u>10% of total units set-aside for residents at or below 80% of local median income and 15% of total units set-aside for residents at or below 100% of local median income</u>
<u>Acquisition or Refinancing of dwelling units currently satisfying 10% and 15% set-aside requirements</u>	<u>10% of total units set-aside for residents at or below 80% of local median income and 15% of total units set-aside for residents at or below 100% of local median income</u>
<u>Acquisition or Refinancing of dwelling units not currently satisfying 10% and 15% set-aside requirements</u>	<u>20% of total units set-aside for residents at or below 50% of local median income or 40% of total units set-aside for residents at or below 60% of local median income</u>

~~((e)) (d) The following set-aside requirements must be met by CCRCs receiving Medicaid funds((--construction or rehabilitation. If financing was obtained for the construction or rehabilitation of a CCRC with Medicaid contracts for continuing care contract residents, the following set-asides apply:~~

~~(i) Ten percent of the total dwelling units financed must be set aside for residents with incomes at or below eighty percent of the local median income; and~~

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(ii) Ten percent of the total dwelling units must be set aside for residents at or below fifty percent of the local median income.

(f) ~~CCRCs receiving Medicaid funds—acquisition or refinancing. If financing was obtained to acquire a CCRC or to refinance a CCRC with Medicaid contracts for continuing care contract residents, the following set-asides apply:~~

(i) Twenty percent of the total dwelling units financed must be set aside for residents with incomes at or below fifty percent of the local median income; or

(ii) ~~Forty percent of the total dwelling units must be set aside for residents at or below sixty percent of the local median income.)~~ to receive a total exemption:

<u>PURPOSE OF BOND FINANCING</u>	<u>SET-ASIDE REQUIREMENTS</u>
<u>New construction or Rehabilitation</u>	<u>10% of total units set-aside for residents at or below 80% of local median income and 10% of total units set-aside for residents at or below 100% of local median income</u>
<u>Acquisition or Refinancing of dwelling units currently satisfying 10% and 10% set-aside requirements</u>	<u>10% of total units set-aside for residents at or below 80% of local median income and 10% of total units set-aside for residents at or below 100% of local median income</u>
<u>Acquisition or Refinancing of dwelling units not currently satisfying 10% and 10% set-aside requirements</u>	<u>20% of total units set-aside for residents at or below 50% of local median income or 40% of total units set-aside for residents at or below 60% of local median income</u>

(8) **Partial exemption.** If a home does not qualify for a total exemption from property tax, the home may receive a partial exemption for its real property on a unit by unit basis and a total exemption for its personal property.

(a) Real property exemption. If the real property of a home is used in the following ways, the portion of the real property so used will be exempt and the home may receive a partial exemption for:

(i) Each dwelling unit occupied by a resident requiring significant assistance with activities of daily living;

(ii) Each dwelling unit occupied by an eligible resident; and

(iii) Common or shared areas of the home that are jointly used for two or more purposes that are exempt from property tax under chapter 84.36 RCW.

(b) Assistance with activities of daily living. A home may receive a partial exemption for each dwelling unit that is occupied by a resident who requires significant assistance with the activities of daily living and the home provides, brokers, facilitates, or contracts for the provision of this assis-

tance. A resident requiring assistance with the activities of daily living must be a resident who requires significant assistance with at least three of the nonexclusive list of activities set forth below and who, unless he or she receives the assistance, would be at risk of being placed in a nursing home. Activities of daily living include, but are not limited to:

- (i) Shopping;
- (ii) Meal and/or food preparation;
- (iii) Housekeeping;
- (iv) Transportation;
- (v) Dressing;
- (vi) Bathing;
- (vii) General personal hygiene;
- (viii) Monitoring of medication;
- (ix) Ambulatory services;
- (x) Laundry services;
- (xi) Incontinence management; and
- (xii) Cuing for the cognitively impaired.

(c) Examples of assistance with the activities of daily living:

(i) If the resident of a home requires someone to assist him or her with daily dressing, bathing, and personal hygiene, weekly housekeeping chores, and daily meal preparation, he or she is a resident requiring significant assistance with activities of daily living and the home may receive a partial exemption for the dwelling unit in which he or she resides.

(ii) If the resident of a CCRC only requires someone to clean his or her house weekly and to do the laundry weekly, the resident does not require significant assistance with activities of daily living and the CCRC may not receive a partial exemption for the dwelling unit.

(d) Common or shared areas. Areas of a home that are jointly used for two or more purposes exempt from property tax under chapter 84.36 RCW will be exempted under RCW 84.36.041.

(i) The joint use of the common or shared areas must be reasonably necessary for the purposes of the nonprofit organization, association, or corporation exempt from property tax under chapter 84.36 RCW. A kitchen, dining room, and laundry room are examples of the types of common or shared areas for which a partial property tax exemption may be granted.

(ii) Example. A nonprofit organization uses its facility as a home for the aging and a nursing home. The home and nursing home jointly use the kitchen and dining room. The home may receive a property tax exemption for the common or shared areas under RCW 84.36.041. The eligibility of the other areas of the facility will be determined by the appropriate statute. The home's eligibility will be determined by RCW 84.36.041 and the nursing home's eligibility will be determined by RCW 84.36.040.

(e) Amount of partial exemption. The amount of partial exemption will be calculated by multiplying the assessed value of the property reasonably necessary for the purposes of the home, minus/less the assessed value of any common or shared areas, by a fraction. The numerator of the fraction is the number of the dwelling units occupied on January 1st of the assessment year by eligible residents and by residents requiring assistance with activities of daily living. The denominator of the fraction is the total number of occupied

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dwelling units as of January 1st of the assessment year.
 Example:

Assessed value of home:	\$500,000
Less assessed value of common area:	- 80,000
Total	\$420,000
Number of units occupied on 1/1 by eligible residents and people requiring assistance with daily living activities =	6
Total of occupied units on 1/1	40 or .15

$\$420,000 \times .15 = \$63,000$ Amount of partial exemption
 $\$420,000 - \$63,000 = \$357,000$ Taxable value of home

(f) Valuation of the home. The assessor will value a home that receives a partial exemption by considering only the current use of the property during the period in which the partial exemption is received and will not consider any potential use of the property.

(9) **Income verification required from some residents.** If a home seeks a total property tax exemption because at least fifty percent of the occupied dwelling units are occupied by eligible residents or seeks to receive a partial exemption based upon the number of units occupied by eligible residents, the residents must submit income verification forms. The department may request income verification forms from residents of homes receiving a total exemption because of tax exempt bond financing.

(a) The income verification forms must be submitted to the assessor of the county in which the home is located by

July 1st of the assessment year in which the application for exemption is made.

(b) The income verification form will be prescribed and furnished by the department of revenue.

(c) If an eligible resident filed an income verification form for a previous year, he or she is not required to submit a new form unless there is a change in status affecting the resident's eligibility, such as a significant increase or decrease in disposable income, or the assessor or the department requests a new income verification form to be submitted.

(10) ~~(Three-year phase in for a home with increased taxable value.~~ If the taxable value of a home is increased because of the change in the method of calculating the amount of partial exemption, the increased taxable value shall be phased in over a period of three years.

(a) ~~Eligibility requirements for phase in.~~ If the home meets the following conditions the increased taxable value may be phased in:

(i) ~~The home was exempt or partially exempt for taxes levied in 1993 for collection in 1994;~~

(ii) ~~The home is partially exempt for taxes levied in 1994 for collection in 1995; and~~

(iii) ~~The taxable value of the home increased for taxes levied in 1994 for collection in 1995 due to the change prescribed by chapter 151, Laws of 1993 with respect to the numerator of the fraction used to determine the amount of partial exemption.~~

(b) ~~Method of phase in.~~ The increase in taxable value shall be phased in as follows:

Column 1 Year	Column 2 Value after partial exemption	Column 3 Increase in Value (Col. 2 minus TV from Prior Year)	Column 4 Annual % of Increase to be Paid	Column 5 Amount of Increase to be Paid (Col. 3 x Col. 4)	Column 6 Taxable Value ("TV") (Col. 5 + TV from Prior Year)
1993	\$292,300	—	—	—	\$292,300
1994	\$357,000*	\$64,700	33.00%	\$21,351	\$313,651
1995	\$336,000**	\$22,349	50.00%	\$11,175	\$324,826
1996	\$325,500	\$674	100.00%	\$674	\$325,500
1997	\$367,500	—	—	—	\$367,500

* This value is a continuation of the example in subsection (8)(e) of this section.

** For the purposes of this example, we are assuming that the home is located in a county on a four year revaluation cycle and that value of this home after the partial exemption will fluctuate each year because the number of eligible residents and residents who require assistance with the activities of daily living will change each year. In this example, the number of units exempt from property tax within the home used in the example in subsection (8)(e) are as follows: Eight in 1995, nine in 1996, and five in 1997.

(i) ~~For taxes levied in 1994 for collection in 1995, the home will pay taxes based on the taxable value in 1993 plus one-third of the increase in the taxable value from 1993 to the taxable value calculated under subsection (8)(e) of this section.~~

(ii) ~~For taxes levied in 1995 for collection in 1996, the home will pay taxes based on the taxable value in 1994 plus one-half of the increase in the taxable value from 1994 to the~~

~~taxable value calculated under subsection (8)(e) of this section.~~

(iii) ~~For taxes levied in 1996 for collection in 1997 and for taxes levied thereafter, this subsection does not apply and the home will pay taxes on the taxable value without reference to this subsection.~~

(c) ~~Example:~~ Assume, for the purposes of this example, in 1993 the assessed value of a home was \$475,000, the value of the shared area was \$80,000, and twenty six percent of the units were exempt. Therefore, the assessed value minus the value of the shared area or \$395,000 multiplied by .74 = a taxable value of \$292,300.

(11) **Additional requirements.** Any nonprofit home for the aging that applies for a property tax exemption under this section must also comply with the provisions of WAC 458-16A-020 and 458-16-165. WAC 458-16A-020 contains information regarding the initial application and renewal procedures relating to the exemption discussed in this section.

WAC 458-16-165 sets forth additional requirements that must be complied with to obtain a property tax exemption pursuant to RCW 84.36.041.

WSR 99-04-051
PERMANENT RULES
DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed January 28, 1999, 1:20 p.m.]

Date of Adoption: January 13, 1999.

Purpose: Create a new WAC to assist the nurses and the public in understanding the concept of sexual misconduct and disciplinary actions which can be taken in disciplinary cases coming before the commission and to ensure that the commission's disciplinary actions are enforceable and therefore more fully protect the public.

Citation of Existing Rules Affected by this Order: New WAC 246-840-740 Sexual misconduct prohibited.

Statutory Authority for Adoption: RCW 18.130.180(24).

Adopted under notice filed as WSR 98-24-106 on December 2, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 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 1, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 13, 1999

Joanna Boatman, RN, Chair

Nursing Care Quality Assurance Commission

NEW SECTION

WAC 246-840-740 Sexual misconduct prohibited. (1)
What is the nursing commission's intent in prohibiting this type of misconduct?

Sexual or romantic conduct with a client or the client's family is serious misconduct because it harms the nurse/client relationship and interferes with the safe and effective delivery of nursing services. A nurse does not need to be "assigned" to the client in order for the nurse/client relationship to exist. The role of the nurse in the nurse/client relationship places the nurse in the more powerful position and the nurse must not abuse this power. Under certain circumstances, the nurse/client relationship continues beyond the

termination of nursing services. Not only does sexual or romantic misconduct violate the trust and confidence held by health care clients towards nursing staff, but it also undermines public confidence in nursing. Nurses can take measures to avoid allegations of such misconduct by establishing and maintaining professional boundaries in dealing with their clients.

(2) What conduct is prohibited?

Nurses shall never engage, or attempt to engage, in sexual or romantic conduct with clients, or a client's immediate family members or significant others. Such conduct does not have to involve sexual contact. It includes behaviors or expressions of a sexual or intimately romantic nature. Sexual or romantic conduct is prohibited whether or not the client, family member or significant other initiates or consents to the conduct. Such conduct is also prohibited between a nursing educator and student.

Regardless of the existence of a nurse/client relationship, nurses shall never use patient information derived through their role as a health care provider to attempt to contact a patient in pursuit of a nurse's own sexual or romantic interests or for any other purpose other than legitimate health care.

(3) What should a nurse do to avoid allegations of sexual or romantic misconduct?

Establishing and maintaining professional boundaries is critical to avoiding even the appearance of sexual or romantic misconduct. Nurses can take certain preventative steps to make sure safeguards are in place at all times, such as:

(a) Setting appropriate boundaries with patients, physically and verbally, at the outset of professional relationships, and documenting such actions and the basis for such actions;

(b) Consulting with supervisors regarding difficulties in establishing and maintaining professional boundaries with a given client; and/or

(c) Seeking reassignment to avoid incurring a violation of these rules.

(4) What about former clients?

A nurse shall not engage or attempt to engage a former client, or former client's immediate family member or significant other, in sexual or romantic conduct if such conduct would constitute abuse of the nurse/client relationship. The nurse/client relationship is abused when a nurse uses and/or benefits from the nurse's professional status and the vulnerability of the client due to the client's condition or status as a patient.

(a) Due to the unique vulnerability of mental health and chemical dependency clients, nurses are prohibited from engaging in or attempting to engage in sexual or romantic conduct with such former clients, or their immediate family or significant other, for a period of at least two years after termination of nursing services. After two years, sexual or romantic conduct may be permitted with a former mental health or chemical dependency client, but only if the conduct would not constitute abuse of the nurse/client relationship.

(b) Factors which the commission may consider in determining whether there was abuse of the nurse/client relationship include, but are not limited to:

(i) The amount of time that has passed since nursing services were terminated;

(ii) The nature and duration of the nurse/client relationship, the extent to which there exists an ongoing nurse/client relationship following the termination of services, and whether the client is reasonably anticipated to become a client of the nurse in the future;

(iii) The circumstances of the cessation or termination of the nurse/client relationship;

(iv) The former client's personal history;

(v) The former client's current or past mental status, and whether the client has been the recipient of mental health services;

(vi) The likelihood of an adverse impact on the former client and others;

(vii) Any statements or actions made by the nurse during the course of treatment suggesting or inviting the possibility of sexual or romantic conduct;

(viii) Where the conduct is with a client's immediate family member or significant other, whether such a person is vulnerable to being induced into such relationship due to the condition or treatment of the client or the overall circumstances.

(5) Are there situations where these rules do not apply?

These rules do not prohibit:

(a) The provision of nursing services on an urgent, unforeseen basis where circumstances will not allow a nurse to obtain reassignment or make an appropriate referral;

(b) The provision of nursing services to a spouse, or family member, or any other person who is in a preexisting, established relationship with the nurse where no evidence of abuse of the nurse/client relationship exists.

WSR 99-04-052

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed January 28, 1999, 1:25 p.m., effective March 10, 1999]

Date of Adoption: December 15, 1998.

Purpose: Chapter 246-320 WAC will replace chapter 246-318 WAC to establish minimum health, safety, operational and construction standards for acute care hospitals.

Citation of Existing Rules Affected by this Order: Repealing chapter 246-318 WAC, WAC 246-318-010 Definitions, 246-318-013 License expiration dates—Notice of decision—Adjudicative proceeding, 246-318-015 Exemptions and interpretations, 246-318-017 Single license to cover two or more buildings—When permissible, 246-318-020 Approval of plans, 246-318-025 Required approval for occupancy after completion of new construction, 246-318-030 Governing body and administration, 246-318-033 Medical staff, 246-318-035 Infection control program, 246-318-040 Personnel, 246-318-042 Criminal history, disclosure, and background inquiries, 246-318-150 Maintenance, 246-318-155 Housekeeping, 246-318-160 Laundry, 246-318-170 Sewage, garbage, and waste, 246-318-180 Dietary and/or food service, 246-318-190 Patient care services, general, 246-318-200 Abuse reports—Children and developmentally disabled adults, 246-318-210 Pediatric services, 246-318-220

Obstetrical services, 246-318-230 Intermediate care nursery service—Neonatal intensive care nursery service, 246-318-240 Critical care service, 246-318-250 Renal dialysis services, 246-318-260 Long-term care services, 246-318-270 Alcoholism and/or substance abuse unit, 246-318-280 Psychiatric units and services, 246-318-290 Surgery—Operating rooms and areas—Special procedure rooms—Surgical treatment or diagnostic areas, 246-318-300 Anesthesia services, 246-318-310 Post-anesthesia recovery areas, 246-318-320 Processing and sterilizing services, 246-318-330 Use of medical gases, combustible anesthetics, 246-318-350 Emergency care services, 246-318-370 Laboratory, 246-318-380 Diagnostic and therapeutic radiology and other imaging services, 246-318-390 Physical and occupational therapy services, 246-318-400 Respiratory care services, 246-318-420 Hospital pharmacy, 246-318-440 Records and reports—Medical record system, 246-318-450 Discharge planning, 246-318-500 Applicability of WAC 246-318-500 through 246-318-99902, 246-318-510 Programs, drawings and construction, 246-318-520 Design and construction standards, general, 246-318-530 Site and site development, 246-318-540 General design requirements, 246-318-550 General requirements for support facilities, 246-318-560 Maintenance and mechanical facilities, 246-318-570 Administrative facilities, 246-318-580 Receiving, storage and distribution facilities, 246-318-590 Central sterilizing and processing service facilities, 246-318-600 Environmental services facilities, 246-318-610 Laundry facilities, 246-318-620 Dietary facilities, 246-318-630 Laboratory and pathology facilities, 246-318-640 Pharmacy, 246-318-650 Radiology and other imaging facilities, 246-318-660 Nuclear medicine facilities, 246-318-670 Electrocardiography facilities, 246-318-680 Electroencephalography facilities, 246-318-690 Nursing unit, 246-318-700 Pediatric nursing unit, 246-318-710 Emergency facilities, 246-318-720 Surgery suite, 246-318-730 Recovery/post anesthesia care unit (PACU), 246-318-740 Critical care facilities, 246-318-750 Facilities for care of patients in labor, 246-318-760 Obstetrical delivery facilities, 246-318-770 Birthing rooms, 246-318-780 Obstetrical recovery unit, 246-318-790 Newborn nursery facilities, 246-318-800 Intermediate care nursery and neonatal intensive care nursery, 246-318-810 Alcoholism and substance abuse nursing unit, 246-318-820 Psychiatric facilities, 246-318-830 Rehabilitation facilities, 246-318-840 Outpatient care facilities, 246-318-850 Special procedure facilities, 246-318-860 Dialysis facilities, 246-318-870 Long-term care unit, 246-318-990 Fees, 246-318-99902 Appendix B—Dates of documents adopted by reference in chapter 246-318 WAC, and 246-318-99910 Appendix J—Guidelines for laboratory quality assurance program in hospitals.

New chapter 246-320 WAC, Hospital licensing regulations, WAC 246-320-001 Purpose and applicability of chapter, 246-320-010 Definitions, 246-320-025 On-site licensing survey, 246-320-045 Application for license—License expiration dates—Notice of decision—Adjudicative proceeding, 246-320-065 Exemptions, alternative methods, and interpretations, 246-320-085 Single license to cover two or more buildings—When permissible, 246-320-105 Criminal history, disclosure, and background inquiries, 246-320-125 Governance, 246-320-145 Leadership, 246-320-165 Man-

agement of human resources, 246-320-185 Medical staff, 246-320-205 Management of information, 246-320-225 Improving organizational performance, 246-320-245 Patient rights and organizational ethics, 246-320-265 Infection control program, 246-320-285 Pharmacy services, 246-320-305 Food and nutrition services, 246-320-325 Laboratory, imaging, and other diagnostic, treatment or therapeutic services, 246-320-345 Inpatient care services, 246-320-365 Specialized patient care services, 246-320-385 Outpatient care services, 246-320-405 Management of environment for care, 246-320-500 Applicability of WAC 246-320-500 through 246-320-99902, 246-320-505 Design, construction review, and approval of plans, 246-320-515 Site and site development, 246-320-525 General design, 246-320-535 Support facilities, 246-320-545 Maintenance, engineering, mechanical, and electrical facilities, 246-320-555 Admitting, lobby, and medical records facilities, 246-320-565 Receiving, storage, and distribution facilities, 246-320-575 Central processing service facilities, 246-320-585 Environmental services facilities, 246-320-595 Laundry and/or linen handling facilities, 246-320-605 Food and nutrition facilities, 246-320-615 Pharmacy, 246-320-625 Laboratory and pathology facilities, 246-320-635 Surgery facilities, 246-320-645 Recovery/post

anesthesia care unit (PACU), 246-320-655 Obstetrical delivery facilities, 246-320-665 Birthing/delivery rooms, labor, delivery, recovery (LDR) and labor, delivery, recovery, postpartum (LDRP), 246-320-675 Interventional service facilities, 246-320-685 Nursing unit, 246-320-695 Pediatric nursing unit, 246-320-705 Newborn nursery facilities, 246-320-715 Intermediate care nursery and neonatal intensive care nursery, 246-320-725 Critical care facilities, 246-320-735 Alcoholism and chemical dependency nursing unit, 246-320-745 Psychiatric facilities, 246-320-755 Rehabilitation facilities, 246-320-765 Long-term care and hospice unit, 246-320-775 Dialysis facilities, 246-320-785 Imaging facilities, 246-320-795 Nuclear medicine facilities, 246-320-805 Emergency facilities, 246-320-815 Outpatient care facilities, 246-320-990 Fees, and 246-320-99902 Appendix B—Dates of documents adopted by reference in chapter 246-320 WAC.

Statutory Authority for Adoption: RCW 70.41.030.

Other Authority: RCW 43.70.040.

Adopted under notice filed as WSR 98-21-083 on October 21, 1998.

Changes Other than Editing from Proposed to Adopted Version:

Hospital Licensing Regulations, Chapter 246-320 WAC

WAC Section	Change	Reason for Change
WAC 246-320-010 Definitions.	<p>Definition section was renumbered as necessary.</p> <p><u>Added definitions:</u> (31) "Failure or major malfunction" (53) "Major permanent loss of function" (66) "Notify" (98) "Sexual assault" or "rape"</p> <p><u>Deleted definitions:</u> (48) "Labor-delivery-recovery-postpartum (LDRP) room," or "birthing room" or "labor-delivery-recovery (LDR) room"</p> <p><u>Amended definitions:</u> "Pressure Relationships" deleted "ten percent" inserted "70 CFM"</p>	<p>Additions and deletions of definitions required renumbering.</p> <p>Definitions were added for clarity as requested through written comments and testimony at the public hearing.</p> <p>This definition was duplicative with (47) "Labor-delivery-recovery (LDR) room," "birthing room" or "labor-delivery-recovery-postpartum (LDRP) room."</p> <p>Returned to original "draft" definition. Comments received on proposed rule requested that this definition be changed to provide the necessary air flow for staff and/or patient respiratory protection, odor control and infection control.</p>
WAC 246-320-025 On-site licensing survey. (1)(b) (4)(b)	<p>Inserted the phrase "in writing" after "notify the hospital."</p> <p>Inserted the phrase "in writing" after "notify the department."</p>	<p>Clarity issue for notification.</p> <p>Clarity issue for notification.</p>
WAC 246-320-045 Application for license— License expiration dates— Notice of decision—Adjudicative proceeding.	<p>(6)(b)(i) Changed mailing address from P.O. Box 47872 to P.O. Box 47879.</p>	<p>Address was incorrect for the Adjudicative Clerk's Office.</p>

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WAC Section	Change	Reason for Change
WAC 246-320-145 Leadership. (9) (9)(b)	Changed "twenty-four hours" to "one administrative day." Changed "and" to "or."	Consistency issue. Testimony at hearing and written comments requested this change.
(10) (a) (b) (c) (d) (e) (f) (g) (h)	Changed "occur" to "have been confirmed to have occurred." Changed language to be consistent with JCAHO language. Moved from (c) in proposed language. Changed "within the facility" to "while the patient was under care in the hospital." Moved from (d) in proposed language. Language is the same. Moved from (e) in proposed language. Changed language to be consistent with JCAHO language. Moved from (f) in proposed language. Changed language to be consistent with JCAHO language. Moved from (b) in proposed language. No change. No change.	Rewrote section to include "confirmed." Testimony at hearing and written comments received had concerns with reporting events prior to confirmation. Request from public hearing. Request from public hearing. Consistent with JCAHO language. Renumbered change due to amendments. Renumbered changed due to amendments. Request from public hearing. Renumbered changed due to amendments. Request from public hearing. Renumbered changed due to amendments. Renumbered changed due to amendments. No change to language. Added definitions in WAC 246-320-010 to address concerns/clarify this subsection. No change to language.
(11) (12)	Subsections (11) and (12) were combined and amended for clarity. •Added language to clarify what is expected in a "notice" to the department. •Added language to clarify that upon receiving notice of an adverse event, the department will either review the event at the next scheduled inspection or conduct an independent investigation. •Rewrote section to address confidentiality of QI/PI and Peer Review information by invoking the protections of the Public Disclosure Act on the information given to the department.	Made changes to address concerns brought up at hearing and clarify vague references.
WAC 246-320-165 Management of human resources. (6)	Defined "current guidelines" — additional change was made in WAC 246-320-99902.	Added language to reference proper guideline.

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WAC Section	Change	Reason for Change
WAC 246-320-245 Patient rights and organizational ethics. (2)(d)	Added reference to organ procurement statutes, RCW 68.50.500 and 68.50.560.	Added for clarity and information.
WAC 246-320-265 Infection control program. (3)	Added language to clarify correct reference, deleted "current ."	Added language to reference proper guideline.
WAC 246-320-305 Food and nutritional services. (3)	Added "a patient's individual" before "nutritional risk screen."	Clarify intent.
WAC 246-320-325 Laboratory, imaging, and other diagnostic, treatment or therapeutic services. (1) and (3)	Amended title of section. Added language for clarity.	Identified "other" services. Language needed to clarify intent.
WAC 246-320-345 Inpatient care services (5)(d) (5)(l)	Minor editing changes throughout section. Inserted "potential" in front of "patients...organ and/or tissue donors." Deleted reference to specific personnel.	Editing changes to correct errors. Clarified intent. Personnel should reflect "all" appropriate personnel, not just those previously identified.
WAC 246-320-365 Specialized patient care services. (2) (5)(a)(i) (5)(b)(ii) (8)(c)	Added "service" after "specialty." Rearranged sentence. Changed "if" to "when." Added a new (c)—same language as (7)(c).	Clarified intent. Rearranged for consistency. Clarified intent. Added language for consistency.
WAC 246-320-385 Outpatient care services. (4)	Reworded sentence.	Reworded for clarity.
WAC 246-320-405 Management of environment for care. (6)(a) (8)(a)(i) (8)(a)(ii) (9)	Section renumbered. Inserted "implement a plan to" after "establish and." Deleted language. Inserted "system" after "utility." Reworded.	Part of intent statement in proposed language renumbered as subsection (1). Subsequent sections were renumbered. Change made for consistency with other sections. Change made for clarity. Language added to clarify intent. Reworded for clarity.
WAC 246-320-505 Design, construction review, and approval of plans. (1)	Inserted "excluding minor alterations" after "new construction."	Amendment made based on comments received at hearing and in writing, and to clarify intent.

WAC Section	Change	Reason for Change
(2)	Deleted "and major alterations" after "new construction." Inserted "mechanical and electrical for patient care areas" after "fire and life safety."	Changes made based on comments received at hearing and in writing, and to clarify intent.
(2)(b)	Deleted "Detailed" in front of "drawings." Inserted "to include coordinated" after "drawings and inspections."	Clarified intent of "detailed" as requested.
(2)(c)	Replaced "Functional layout" with "Floor plan."	Clarified intent.
(3)	Reordered section and added new language for (a) —"Respond in writing when the department requests additional or corrected construction documents." Deleted subsection (4) from proposed language.	Reordered for clarity. Added language to outline intent. Unnecessary with changes.
WAC 246-320-525 General design.		
(1)	Replaced "inpatient" with "patient."	Intent is for patient areas.
(2)(e)(i)	Added "during an alteration" after "permitted."	Clarified intent.
(2)(e)(ii)	Added "or barrier-free accessible toilets" for exception to door requirements.	Necessary to meet requirements of American Disabilities Act.
(2)(i)	Renumbered and reworded to improve clarity.	Same requirements. Reworded for clarity.
(3)(e)(ii)	Inserted "air" between "outdoor" and "intake."	Corrected technical oversight.
(3)(e)(ii)(C)(II)	Inserted "not less than" in front of "three feet above the roof level."	Clarified intent as requested in written comment.
TABLE 525-3		
	Deleted "maximum" in "Capacity (°F) to Attain Temperature." Added footnote (11) to clarify "capacity" intent.	Change made to accommodate comments received on this section. Clarifies intent of section heading (within table).
WAC 246-320-535 Support facilities.		
(2)	Added "or area" after "clean storage room."	Change made to accommodate comments received on this section.
WAC 246-320-565 Receiving, storage and distribution.		
(3)	Changed WAC 246-320-525 (3)(h) to WAC 246-320-525 (2)(h).	Reference was incorrect.
(4)	Replaced "issued" with "is used."	Corrected typo.
WAC 246-320-635 Surgery facilities.		
(3)(c)	Deleted "separate" in front of "patient preoperative areas."	Change made as requested by written comments.
(4)(f)	Replaced "in accordance" with "consistent."	Changed for consistency issues.

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WAC Section	Change	Reason for Change
WAC 246-320-745 Psychiatric facilities.	Added "psychiatric facilities" after "Hospitals will design."	This was inadvertently omitted from proposed language.
WAC 246-320-99902 Appendix B—Dates of documents adopted by reference in chapter 246-320 WAC.	Added a new (15)—Reference to current TB guidelines referenced in WAC 246-320-165(6).	This is the "current" guideline for prevention of TB transmission in health care facilities.

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 56, Amended 0, Repealed 78.

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 56, Amended 0, Repealed 78.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 56, Amended 0, Repealed 78.

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 56, Amended 0, Repealed 78.

Effective Date of Rule: March 10, 1999.

January 27, 1999

Mary Selecky

Acting Secretary

or guardian responsibility is delegated (e.g., teachers, providers of residential care and treatment, and providers of day care):

(a) "Physical abuse" means damaging or potentially damaging nonaccidental acts or incidents which may result in bodily injury or death.

(b) "Emotional abuse" means verbal behavior, harassment, or other actions which may result in emotional or behavioral problems, physical manifestations, disordered or delayed development.

(2) "Accredited" means approved by the joint commission on accreditation of healthcare organizations (JCAHO).

(3) "Administrative business day" means Monday, Tuesday, Wednesday, Thursday, or Friday, 8:00 a.m. to 5:00 p.m., exclusive of recognized state of Washington holidays.

(4) "Agent," when used in a reference to a medical order or a procedure for a treatment, means any power, principle, or substance, whether physical, chemical, or biological, capable of producing an effect upon the human body.

(5) "Airborne precaution room" means a room that is designed and equipped to care for patients known or suspected to be infected with microorganisms transmitted by airborne droplet nuclei (small-particle residue [five microns or smaller in size] of evaporated droplets containing microorganisms that remain suspended in the air and can be widely dispersed by air currents within a room or over a long distance).

(6) "Alcoholism" means an illness characterized by lack of control as to the consumption of alcoholic beverages, or the consumption of alcoholic beverages to the extent an individual's health is substantially impaired or endangered, or his or her social or economic function is substantially disrupted.

(7) "Alteration":

(a) "Alteration" means any change, addition, remodel or modification in construction, or occupancy to an existing hospital or a portion of an existing hospital.

(b) "Major alteration" means any physical change within an existing hospital that changes the occupancy (as defined in state building code) and scope of service within a room or area, results in reconstruction to major portions of a floor or department, or requires revisions to building systems or services.

(c) "Minor alteration" means any physical change to an existing hospital which does not affect the structural integrity of the hospital building, which does not affect fire and life safety, and which does not add beds or facilities over those for which the hospital is licensed.

(8) "Ambulatory" means an individual physically and mentally capable of walking or traversing a normal path to

NEW SECTION

WAC 246-320-001 Purpose and applicability of chapter. This chapter is adopted by the Washington state department of health to implement the provisions of chapter 70.41 RCW and establish minimum health and safety requirements for the operation, maintenance, and construction of acute care hospitals.

(1) Compliance with the regulations in this chapter does not constitute release from the requirements of applicable state and local codes and ordinances. Where regulations in this chapter exceed other codes and ordinances, the regulations in this chapter will apply:

(2) The department will review references to codes and regulations in this chapter, and:

(a) Update as necessary; and

(b) Adopt a revised list of referenced standards, if required.

NEW SECTION

WAC 246-320-010 Definitions. For the purposes of this chapter and chapter 70.41 RCW, the following words and phrases will have the following meanings unless the context clearly indicates otherwise:

(1) "Abuse" means injury or sexual abuse of a patient under circumstances indicating the health, welfare, and safety of the patient is harmed. Person "legally responsible" will include a parent, guardian, or an individual to whom parental

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safety, including the ascent and descent of stairs, without the physical assistance of another person.

(9) "Area" means a portion of a room or building that is separated from other functions in the room or portions of the building by a physical barrier or adequate space.

(10) "Assessment" means the: (a) Systematic collection and review of patient-specific data; (b) process established by a hospital for obtaining appropriate and necessary information about each individual seeking entry into a health care setting or service; and (c) information to match an individual's need with the appropriate setting and intervention.

(11) "Authentication" means the process used to verify that an entry is complete, accurate, and final.

(12) "Bathing facility" means a bathtub or shower, but does not include sitz bath or other fixtures designated primarily for therapy.

(13) "Birthing room" or "labor-delivery-recovery (LDR) room" or "labor-delivery-recovery-postpartum (LDRP) room" means a room designed and equipped for the care of a woman, fetus, and newborn, and to accommodate her support people during the complete process of vaginal childbirth.

(14) "Child" means an individual under the age of eighteen years.

(15) "Clean" when used in reference to a room, area, or facility means space or spaces and/or equipment for storage and handling of supplies and/or equipment which are in a sanitary or sterile condition.

(16) "Communication system" means telephone, intercom, nurse call or wireless devices used by patients and staff to communicate.

(17) "Critical care unit or service" means the specialized medical and nursing care provided to patients facing an immediate life-threatening illness or injury. The care is provided by multidisciplinary teams of highly experienced and skilled physicians, nurses, pharmacists or other allied health professionals who have the ability to interpret complex therapeutic and diagnostic information and access to highly sophisticated equipment.

(18) "Department" means the Washington state department of health.

(19) "Detoxification" means the process of ridding the body of the transitory effects of intoxication and any associated physiological withdrawal reaction.

(20) "Dialysis facility" means a separate physical and functional nursing unit of the hospital serving patients receiving renal dialysis.

(21) "Dialysis station" means an area designed, equipped, and staffed to provide dialysis services for one patient.

(22) "Dietitian" means an individual meeting the eligibility requirements for active membership in the American Dietetic Association described in Directory of Dietetic Programs Accredited and Approved, American Dietetic Association, edition 100, 1980.

(23) "Direct access" means access to one room from another room or area without going through an intervening room or into a corridor.

(24) "Double-checking" means verification of patient identity, agent to be administered, route, quantity, rate, time, and interval of administration by two persons legally quali-

fied to administer such agent prior to administration of the agent.

(25) "Drugs" as defined in RCW 18.64.011(3) means:

(a) Articles recognized in the official U.S. pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection but not including devices or component parts or accessories.

(26) "Drug dispensing" means an act entailing the interpretation of an order for a drug or biological and, pursuant to that order, proper selection, measuring, labeling, packaging, and issuance of the drug for a patient or for a service unit of the facility.

(27) "Easily cleanable" means readily accessible and made with materials and finishes fabricated to permit complete removal of residue or dirt by accepted cleaning methods.

(28) "Electrical receptacle outlet" means an outlet where one or more electrical receptacles are installed.

(29) "Emergency triage" means the immediate patient assessment by a registered nurse, physician, or physician assistant to determine the nature and urgency of the person's medical need and the time and place care and treatment is to be given.

(30) "Facilities" means a room or area and equipment serving a specific function.

(31) "Failure or major malfunction" means an essential environmental, life safety or patient care function, equipment or process ceasing operation or capability of working as intended and any back up, reserve or replacement to the function, equipment or process has not occurred or is nonexistent. Such as, but not limited to, the:

(a) Normal electrical power ceases and the emergency generator(s) do not function;

(b) Ventilation system ceases to operate or reverses air flow and causes contaminated air to circulate into areas where it was not designated or intended to flow; or

(c) Potable water in the hospital becomes contaminated so it cannot be used.

(32) "Family" means individuals important to and designated by a patient who need not be relatives.

(33) "Faucet controls" means wrist, knee, or foot control of the water supply:

(a) "Wrist control" means water supply is controlled by handles not less than four and one-half inches overall horizontal length designed and installed to be operated by the wrists;

(b) "Knee control" means the water supply is controlled through a mixing valve designed and installed to be operated by the knee;

(c) "Foot control" means the water supply is controlled through a mixing valve designed and installed to be operated by the foot.

(34) "Governing authority/body" means the person or persons responsible for establishing the purposes and policies of the hospital.

(35) "Grade" means the level of the ground adjacent to the building. The ground must be level or slope downward for a distance of at least ten feet away from the wall of the building. From there the ground may slope upward not greater than an average of one foot vertical to two feet horizontal within a distance of eighteen feet from the building.

(36) "He, him, his, or himself" means an individual of either sex, male or female, and does not mean preference for nor exclude reference to either sex.

(37) "High-risk infant" means an infant, regardless of gestational age or birth weight, whose extrauterine existence is compromised by a number of factors, prenatal, natal, or postnatal needing special medical or nursing care.

(38) "Hospital" means any institution, place, building, or agency providing accommodations, facilities, and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis. "Hospital" as used in this chapter does not include:

(a) Hotels, or similar places furnishing only food and lodging, or simply domiciliary care;

(b) Clinics, or physicians' offices where patients are not regularly kept as bed patients for twenty-four hours or more;

(c) Nursing homes, as defined and which come within the scope of chapter 18.51 RCW;

(d) Maternity homes, which come within the scope of chapter 18.46 RCW;

(e) Psychiatric or alcoholism hospitals, which come within the scope of chapter 71.12 RCW; nor

(f) Any other hospital or institution specifically intended for use in the diagnosis and care of those suffering from mental illness, mental retardation, convulsive disorders, or other abnormal mental conditions.

(g) Furthermore, nothing in this chapter will be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any hospital conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denominations.

(39) "Individualized treatment plan" means a written statement of care planned for a patient based upon assessment of the patient's developmental, biological, psychological, and social strengths and problems, and including:

(a) Treatment goals, with stipulated time frames;

(b) Specific services to be utilized;

(c) Designation of individuals responsible for specific service to be provided;

(d) Discharge criteria with estimated time frames; and

(e) Participation of the patient and the patient's designee as appropriate.

(40) "Infant" means a baby or very young child up to one year of age.

(41) "Infant station" means a space for a bassinet, incubator, or equivalent, including support equipment used for the care of an individual infant.

(42) "Inpatient" means a patient receiving services that require admission to a hospital for twenty-four hours or more.

(43) "Intermediate care nursery" means an area designed, organized, staffed, and equipped to provide constant care and treatment for mild to moderately ill infants not requiring neonatal intensive care, but requiring physical support and treatment beyond support required for a normal neonate and may include the following:

(a) Electronic cardiorespiratory monitoring;

(b) Gavage feedings;

(c) Parenteral therapy for administration of drugs; and

(d) Respiratory therapy with intermittent mechanical ventilation not to exceed a continuous period of twenty-four hours for stabilization when trained staff are available.

(44) "Interventional service facility" means a facility other than operating room (OR) where invasive procedures are performed.

(45) "Invasive procedure" means a procedure involving puncture or incision of the skin or insertion of an instrument or foreign material into the body including, but not limited to, percutaneous aspirations, biopsies, cardiac and vascular catheterizations, endoscopies, angioplasties, and implantations. Excluded are venipuncture and intravenous therapy.

(46) "JCAHO" means joint commission on accreditation of healthcare organizations.

(47) "Labor room" means a room in which an obstetric patient is placed during the first stage of labor, prior to being taken to the delivery room.

(48) "Labor-delivery-recovery (LDR) room," "birthing room," or "labor-delivery-recovery-postpartum (LDRP) room" means a room designed and equipped for the care of a woman, fetus, and newborn and to accommodate her support people during the complete process of vaginal childbirth.

(49) "Licensed practical nurse," abbreviated LPN, means an individual licensed under provisions of chapter 18.78 RCW.

(50) "Long-term care unit" means a group of beds for the accommodation of patients who, because of chronic illness or physical infirmities, require skilled nursing care and related medical services but are not acutely ill and not in need of the highly technical or specialized services ordinarily a part of hospital care.

(51) "Maintainable" means able to preserve or keep in an existing condition.

(52) "Maintenance" means the work of keeping something in suitable condition.

(53) "Major permanent loss of function" means sensory, motor, physiological, or intellectual impairment not present on admission requiring continued treatment or lifestyle change. When this condition cannot be immediately determined, the designation will be made when the patient is discharged with continued major loss of function, or two weeks have elapsed with persistent major loss of function, whichever occurs first.

(54) "Medical staff" means physicians and may include other practitioners appointed by the governing authority to

practice within the parameters of the governing authority and medical staff bylaws.

(55) "Medication" means any substance, other than food or devices, intended for use in diagnosing, curing, mitigating, treating, or preventing disease.

(56) "Movable equipment" means equipment not built-in, fixed, or attached to the building.

(57) "Must" means compliance is mandatory.

(58) "Multidisciplinary treatment team" means a group of individuals from the various disciplines and clinical services who assess, plan, implement, and evaluate treatment for patients.

(59) "Neglect" means mistreatment or maltreatment; an act or omission evincing; a serious disregard of consequences of a magnitude constituting a clear and present danger to an individual patient's health, welfare, and safety.

(a) "Physical neglect" means physical or material deprivation, such as lack of medical care, lack of supervision necessary for patient level of development, inadequate food, clothing, or cleanliness.

(b) "Emotional neglect" means acts such as rejection, lack of stimulation, or other acts of commission or omission which may result in emotional or behavioral problems, physical manifestations, and disordered development.

(60) "Neonate" or "newborn" means a newly born infant under twenty-eight days of age.

(61) "Neonatal intensive care nursery" means an area designed, organized, equipped, and staffed for constant nursing, medical care, and treatment of high-risk infants who may require:

(a) Continuous ventilatory support, twenty-four hours per day;

(b) Intravenous fluids or parenteral nutrition;

(c) Preoperative and postoperative monitoring when anesthetic other than local is administered;

(d) Cardiopulmonary or other life support on a continuing basis.

(62) "Neonatologist" means a pediatrician who is board certified in neonatal-perinatal medicine or board eligible in neonatal-perinatal medicine, provided the period of eligibility does not exceed three years, as defined and described in *Directory of Residency Training Programs* by the Accreditation Council for Graduate Medical Education, American Medical Association, 1998 or the *American Osteopathic Association Yearbook and Directory*, 1998.

(63) "Newborn nursery care" means the provision of nursing and medical services described by the hospital and appropriate for well and convalescing infants including supportive care, ongoing physical assessment, and resuscitation.

(64) "New construction" means any of the following:

(a) New buildings to be licensed as a hospital;

(b) Additions to an existing hospital;

(c) Conversion of an existing building or portions thereof for use as a hospital;

(d) Alterations to an existing hospital.

(65) "Nonambulatory" means an individual physically or mentally unable to walk or traverse a normal path to safety without the physical assistance of another.

(66) "Notify" means to provide notice of required information to the department by the following methods, unless specifically stated otherwise in this chapter:

(a) Telephone;

(b) Facsimile;

(c) Written correspondence; or

(d) In person.

(67) "Nursing unit" means a separate physical and functional unit of the hospital including a group of patient rooms, with ancillary, administrative, and service facilities necessary for nursing service to the occupants of these patient rooms.

(68) "Nutritional assessment" means an assessment of a patient's nutritional status conducted by a registered dietitian.

(69) "Nutritional risk screen" means a part of the initial assessment that can be conducted by any trained member of the multidisciplinary treatment team.

(70) "Observation room" means a room for close nursing observation and care of one or more outpatients for a period of less than twenty-four consecutive hours.

(71) "Obstetrical area" means the portions or units of the hospital designated or designed for care and treatment of women during the antepartum, intrapartum, and postpartum periods, and/or areas designed as nurseries for care of newborns.

(72) "Operating room (OR)" means a room within the surgical department intended for invasive and noninvasive procedures requiring anesthesia.

(73) "Outpatient" means a patient receiving services that generally do not require admission to a hospital bed for twenty-four hours or more.

(74) "Outpatient services" means services that do not require admission to a hospital for twenty-four hours or more.

(75) "Patient" means an individual receiving (or having received) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative health services at the hospital.

(76) "Patient care areas" means all nursing service areas of the hospital where direct patient care is rendered and all other areas of the hospital where diagnostic or treatment procedures are performed directly upon a patient.

(77) "Patient related technology" means equipment used in a patient care environment to support patient treatment and diagnosis, such as electrical, battery and pneumatic powered technology as well as support equipment and disposables.

(78) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(79) "Pharmacist" means an individual licensed by the state board of pharmacy to engage in the practice of pharmacy under the provisions of chapter 18.64 RCW as now or hereafter amended.

(80) "Pharmacy" means the central area in a hospital where drugs are stored and are issued to hospital departments or where prescriptions are filled.

(81) "Physician" means an individual licensed under provisions of chapter 18.71 RCW, Physicians, chapter 18.22 RCW, Podiatric medicine and surgery, or chapter 18.57 RCW, Osteopathy—Osteopathic medicine and surgery.

(82) "Prescription" means an order for drugs or devices issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe drugs or devices in the

course of his or her professional practice for a legitimate medical purpose.

(83) "Pressure relationships" of air to adjacent areas means:

(a) Positive (P) pressure is present in a room when the:

(i) Room sustains a minimum of 0.001 inches of H₂O pressure differential with the adjacent area, the room doors are closed, and air is flowing out of the room; or

(ii) Sum of the air flow at the supply air outlets (in CFM) exceeds the sum of the air flow at the exhaust/return air outlets by at least 70 CFM with the room doors and windows closed;

(b) Negative (N) pressure is present in a room when the:

(i) Room sustains a minimum of 0.001 inches of H₂O pressure differential with the adjacent area, the room doors are closed, and air is flowing into the room; or

(ii) Sum of the air flow at the exhaust/return air outlets (in CFM) exceeds the sum of the air flow at the supply air outlets by at least 70 CFM with the room doors and windows closed;

(c) Equal (E) pressure is present in a room when the:

(i) Room sustains a pressure differential range of plus or minus 0.0002 inches of H₂O with the adjacent area, and the room doors are closed; or

(ii) Sum of the air flow at the supply air outlets (in CFM) is within ten percent of the sum of the air flow at the exhaust/return air outlets with the room doors and windows closed.

(84) "Procedure" means a particular course of action to relieve pain, diagnose, cure, improve, or treat a patient's condition usually requiring specialized equipment.

(85) "Protective precaution room" means a room designed and equipped for care of patients with a high risk for contracting infections, such as bone marrow and organ transplant patients.

(86) "Protocols" and "standing order" mean written descriptions of actions and interventions for implementation by designated hospital personnel under defined circumstances and authenticated by a legally authorized person under hospital policy and procedure.

(87) "Psychiatric service" means the treatment of patients pertinent to the psychiatric diagnosis whether or not the hospital maintains a psychiatric unit.

(88) "Psychiatric unit" means a separate area of the hospital specifically reserved for the care of psychiatric patients (a part of which may be unlocked and a part locked), as distinguished from "seclusion rooms" or "security rooms" as defined in this section.

(89) "Reassessment" means ongoing data collection comparing the most recent data with the data collected on the previous assessment(s).

(90) "Recovery unit" means a special physical and functional area for the segregation, concentration, and close or continuous nursing observation and care of patients for a period of less than twenty-four hours immediately following anesthesia, obstetrical delivery, surgery, or other diagnostic or treatment procedures which may produce shock, respiratory obstruction or depression, or other serious states.

(91) "Registered nurse" means an individual licensed under the provisions of chapter 18.79 RCW and practicing in accordance with the rules and regulations promulgated thereunder.

(92) "Remodel" means the reshaping or reconstruction of a part or area of the hospital.

(93) "Restraint" means any method used to prevent or limit free body movement including, but not limited to, involuntary confinement, an apparatus, or a drug given not required to treat a patient's medical symptoms.

(94) "Room" means a space set apart by floor-to-ceiling partitions on all sides with proper access to a corridor and with all openings provided with doors or windows.

(95) "Seclusion room" means a small, secure room specifically designed and organized for temporary placement, care, and observation of one patient and for an environment with minimal sensory stimuli, maximum security and protection, and visual observation of the patient by authorized personnel and staff. Doors of seclusion rooms are provided with staff-controlled locks.

(96) "Self-administration of drugs" means a patient administering or taking his or her own drugs from properly labeled containers: *Provided*, That the facility maintains the responsibility for seeing the drugs are used correctly and the patient is responding appropriately.

(97) "Sensitive area" means a room used for surgery, transplant, obstetrical delivery, nursery, post-anesthesia recovery, special procedures where invasive techniques are used, emergency or critical care including, but not limited to, intensive and cardiac care or areas where immunosuppressed inpatients are located and central supply room.

(98) "Sexual assault" or "rape" mean consistent with applicable law and regulation and based on the hospital's definition.

(99) "Sinks":

(a) "Clinic service sink (siphon jet)" means a plumbing fixture of adequate size and proper design for waste disposal with siphon jet or similar action sufficient to flush solid matter of at least two and one-eighth inch diameter.

(b) "Scrub sink" means a plumbing fixture of adequate size and proper design for thorough washing of hands and arms, equipped with knee, foot, electronic, or equivalent control, and gooseneck spout without aerators including brush and handsfree soap dispenser.

(c) "Service sink" means a plumbing fixture of adequate size and proper design for filling and emptying mop buckets.

(d) "Handsfree handwash sink" means a plumbing fixture of adequate size and proper design to minimize splash and splatter and permit hand washing without touching fixtures, with adjacent soap dispenser with foot control or equivalent and single service hand drying device.

(e) "Handwash sink" means a plumbing fixture of adequate size and proper design for washing hands, with adjacent soap dispenser and single service hand drying device.

(100) "Soiled" (when used in reference to a room, area, or facility) means space and equipment for collection or cleaning of used or contaminated supplies and equipment or collection or disposal of wastes.

(101) "Special procedure" means a distinct and/or special diagnostic exam or treatment, such as, but not limited to, endoscopy, angiography, and cardiac catheterization.

(102) "Staff" means paid employees, leased or contracted persons, students, and volunteers.

(103) "Stretcher" means a four-wheeled cart designed to serve as a litter for the transport of an ill or injured individual in a horizontal or recumbent position.

(104) "Surgical procedure" means any manual or operative procedure performed upon the body of a living human being for the purpose of preserving health, diagnosing or curing disease, repairing injury, correcting deformity or defect, prolonging life or relieving suffering, and involving any of the following:

- (a) Incision, excision, or curettage of tissue or an organ;
- (b) Suture or other repair of tissue or an organ including a closed as well as an open reduction of a fracture;
- (c) Extraction of tissue including the premature extraction of the products of conception from the uterus; or
- (d) An endoscopic examination with use of anesthetizing agents.

(105) "Surrogate decision-maker" means an individual appointed to act on behalf of another. Surrogates make decisions only when an individual is without capacity or has given permission to involve others.

(106) "Through traffic" means traffic for which the origin and destination are outside the room or area serving as a passageway.

(107) "Toilet" means a room containing at least one water closet.

(108) "Treatment" means the care and management of a patient to combat, improve, or prevent a disease, disorder, or injury, and may be:

- (a) Pharmacologic, surgical, or supportive;
- (b) Specific for a disorder; or
- (c) Symptomatic to relieve symptoms without effecting a cure.

(109) "Treatment room" means a hospital room for medical, surgical, dental, or psychiatric management of a patient.

(110) "Water closet" means a plumbing fixture fitted with a seat and device for flushing the bowl of the fixture with water.

(111) "Will" means compliance is mandatory.

(112) "Window" means a glazed opening in an exterior wall.

(a) "Maximum security window" means a window that can only be opened by keys or tools under the control of personnel. The operation will be restricted to prohibit escape or suicide. Where glass fragments may create a hazard, safety glazing and other appropriate security features will be incorporated. Approved transparent materials other than glass may be used.

(b) "Relite" means a glazed opening in an interior partition between a corridor and a room or between two rooms to permit viewing.

(c) "Security window" means a window designed to inhibit exit, entry, and injury to a patient, incorporating approved, safe transparent material.

(113) "Work surface" means a flat hard horizontal surface such as a table, desk, counter, or cart surface.

NEW SECTION

WAC 246-320-025 On-site licensing survey. The purpose of this section is to provide annual on-site survey requirements in accordance with chapter 70.41 RCW.

(1) The department will:

(a) Conduct at least one on-site licensing survey each calendar year to determine compliance with the provisions in chapter 70.41 RCW and this chapter;

(b) Notify the hospital in writing of state survey findings;

(c) Contact the hospital to discuss the findings of an on-site licensing or joint commission on accreditation of health-care organizations (JCAHO) survey when appropriate; and

(d) Not conduct the annual on-site licensing survey when requested by a hospital accredited by JCAHO in accordance with subsections (2) and (3) of this section.

(2) A hospital accredited by the JCAHO may request exclusion from an annual on-site licensing survey during the year of the JCAHO survey. To request exclusion, a hospital must submit to the department:

(a) A written request asking to be excluded from the annual on-site licensing survey during the calendar year in which the hospital will be surveyed by the JCAHO;

(b) The written request at least thirty days prior to the beginning of the calendar year for which the exclusion from an annual on-site licensing survey will be made;

(c) Verification of current JCAHO accreditation; and

(d) A copy of the decisions and findings of the JCAHO survey within thirty days of receipt of the final JCAHO survey report.

(3) The department will grant an exclusion from the annual on-site licensing survey when:

(a) The hospital:

(i) Meets the requirements in subsection (2) of this section; and

(ii) Verifies current JCAHO accreditation;

(b) The department determines the JCAHO survey standards used at the time of the JCAHO survey exceed or are substantially equivalent to chapter 70.41 RCW and this chapter.

(4) A hospital excluded from an annual on-site licensing survey in accordance with this section:

(a) Is not subject to an annual on-site licensing survey during the calendar year the hospital is surveyed by the JCAHO and for twelve months after the date of the JCAHO survey; and

(b) Must notify the department in writing of any changes in JCAHO accreditation status within ten days of receipt of the accreditation report from the JCAHO.

NEW SECTION

WAC 246-320-045 Application for license—License expiration dates—Notice of decision—Adjudicative proceeding. The purpose of this section is to ensure hospitals are licensed in accordance with chapter 70.41 RCW.

(1) An applicant not currently licensed must submit to the department an application for licensure and applicable fee in accordance with RCW 70.41.100.

(2) The department will, prior to issuing an initial license, verify compliance with the provisions of chapter 70.41 RCW and this chapter which include, but are not limited to:

(a) Approval of construction documents;
(b) Receipt of a certificate of need as provided in chapter 70.38 RCW;

(c) Compliance with local codes and ordinances, including approval to occupy; and

(d) Conducting an on-site licensing survey in accordance with WAC 246-320-025.

(3) The licensed hospital must submit to the department:

(a) No later than November 30 of each calendar year, an application for licensure or verification of license information and applicable fee in accordance with RCW 70.41.100; and

(b) An application addendum indicating any changes to the information previously provided.

(4) The department will issue hospital licenses initially and reissue hospital licenses as often thereafter as necessary each calendar year so as to cause approximately one-third of the total number of hospital licenses to expire on the last day of the calendar year. Licenses issued pursuant to this chapter may be valid for any period not to exceed thirty-six months.

(5) The department may issue a provisional license to permit the operation of the hospital for a period of time to be determined by the department if there is failure to comply with the provisions of chapter 70.41 RCW or this chapter.

(6) The department may deny, suspend, modify, or revoke a license in any case in which it finds that there has been a failure or refusal to comply with the requirements of chapter 70.41 RCW or this chapter.

(a) The department's notice of a denial, suspension, modification, or revocation of a license will be consistent with RCW 43.70.115. An applicant or license holder has the right to an adjudicative proceeding to contest a license decision.

(b) A license applicant or holder contesting a department license decision will within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the office of the Adjudicative Clerk, Department of Health, PO Box 47879, Olympia, WA 98504-7879; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the contested department decision.

(c) The proceeding is governed by the Administrative Procedure Act chapter 34.05 RCW, this chapter, and chapters 246-08 and 246-10 WAC. If a provision in this chapter conflicts with chapter 246-08 or 246-10 WAC, the provision in this chapter governs.

NEW SECTION

WAC 246-320-065 Exemptions, alternative methods, and interpretations. The purpose of this section is to provide hospitals a mechanism to request an interpretation,

exemption, or approval to use an alternative method. The provisions of this chapter are not intended to prevent use of any systems, materials, alternate design, or methods of construction as alternatives to those prescribed by these rules.

(1) A hospital requesting exemption from the provisions of this chapter must submit a written request to the department asking for an exemption. The request must specify the section or sections, explain the reason for the exemption and, when appropriate, include supporting documentation.

(2) A hospital requesting approval for use of alternative materials, design, and methods must submit a written request to the department asking for approval to use an alternative. The request must explain the reason(s) for the use of an alternative and must be supported by technical documentation.

(3) The department may:

(a) Exempt a hospital from complying with portions of this chapter when:

(i) The hospital complies with subsection (1) of this section.

(ii) After review and consideration, such exemption will not:

(A) Negate the purpose and intent of these rules;

(B) Place the safety or health of the patients in the hospital in jeopardy;

(C) Lessen any fire and life safety or infection control provision of other codes or regulations; and

(D) Effect any structural integrity of the building;

(b) Approve the use of alternative materials, designs, and methods when:

(i) The hospital complies with subsection (2) of this section; and

(ii) After review and consideration, such alternative:

(A) Meets the intent and purpose of these rules; and

(B) Is at least equivalent to the methods prescribed in these rules.

(4) A hospital requesting an interpretation of a rule or regulation contained in this chapter must submit a written request to the department. The request must specify the section or sections for which an interpretation is needed and details of the circumstances to which the rule is being applied. The hospital must provide any other information the department deems necessary.

(5) The department will, in response to a written request, send a written interpretation of a rule or regulation within thirty calendar days after the department has received complete information relevant to the requested interpretation.

(6) The department and hospital will keep a copy of each exemption or alternative granted or interpretation issued pursuant to the provisions of this section on file and available at all times.

NEW SECTION

WAC 246-320-085 Single license to cover two or more buildings—When permissible. The purpose of this section is to allow a single hospital license to cover more than one building.

The department may issue a single hospital license to include two or more buildings, provided:

(1) The applicant or hospital:

(a) Meets the licensure requirements of chapter 70.41 RCW and this chapter; and

(b) Operates the multiple buildings as a single integrated system with:

(i) Governance by a single authority or body over all buildings or portions of buildings under the single license; and

(ii) A single medical staff for all hospital facilities under the single license;

(2) The hospital arranges for safe, appropriate, and adequate transport of patients between buildings.

NEW SECTION

WAC 246-320-105 Criminal history, disclosure, and background inquiries. The purpose of this section is to ensure criminal history background inquiries are conducted for any employee or prospective employee who has or will have unsupervised access to children, vulnerable adults, and developmentally disabled adults.

(1) Hospitals will:

(a) Require a disclosure statement as specified under RCW 43.43.834 for each prospective employee, volunteer, contractor, student, and any other person associated with the licensed hospital having unsupervised access to:

(i) Children under sixteen years of age;

(ii) Vulnerable adults as defined under RCW 43.43.830; and

(iii) Developmentally disabled individuals;

(b) Require a Washington state patrol background inquiry as specified in RCW 43.43.834 for each prospective employee, volunteer, contractor, student, and any other person applying for association with the licensed hospital prior to allowing the person unsupervised access to:

(i) Children under sixteen years of age;

(ii) Vulnerable adults as defined under RCW 43.43.830; and

(iii) Developmentally disabled individuals.

(2) The department will:

(a) Review records required under this section;

(b) Investigate allegations of noncompliance with RCW 43.43.830 through 43.43.842, when necessary, in consultation with law enforcement personnel; and

(c) Use information collected under this section solely for the purpose of determining eligibility for licensure or relicensure as required under RCW 43.43.842.

(3) The department may require the hospital to complete additional disclosure statements or background inquiries, if the department has reason to believe that offenses specified under RCW 43.43.830 have occurred since completion of the previous disclosure statement or background inquiry, for any person associated with the licensed facility having unsupervised access to:

(a) Children under sixteen years of age;

(b) Vulnerable adults as defined under RCW 43.43.830; and

(c) Developmentally disabled individuals.

NEW SECTION

WAC 246-320-125 Governance. The purpose of the governance section is to provide organizational guidance and oversight and to ensure resources and staff to support safe and adequate patient care.

The governing authority will:

(1) Adopt and periodically review bylaws which address legal accountabilities and responsibilities. Bylaws will provide for medical staff communication and conflict resolution with the governing authority;

(2) Establish and review governing authority policies, promote performance improvement, and provide for organizational management and planning;

(3) Establish a process for selecting and periodically evaluating a chief executive officer;

(4) Establish and appoint a medical staff; and

(5) Approve bylaws, rules, and regulations as adopted by the medical staff before they can become effective.

NEW SECTION

WAC 246-320-145 Leadership. The purpose of the leadership section is to ensure care is provided consistently throughout the hospital and in accordance with patient and community needs.

The hospital leaders will:

(1) Design hospital-wide patient care services and define department specific scope of services appropriate to the scope and level of care required by the patients served and resources available; and

(a) Approve the scope of service of each department;

(b) Integrate and coordinate patient care services; and

(c) Provide for the uniform performance of patient care processes;

(2) Ensure all patients have access to safe and appropriate care;

(3) Establish and implement processes for:

(a) Gathering, assessing and acting on information regarding patient and family satisfaction with the services provided; and

(b) Complaint resolution for patients, families, employees, providers and others;

(4) Plan, promote, and conduct organization-wide performance-improvement activities to provide effective leadership and coordinated delivery of patient care;

(5) Ensure clinical services are provided in a timely manner;

(6) Ensure nursing policies and procedures, nursing standards of patient care, and standards of nursing practices are established and approved by the nurse executive or a designee(s), and nursing services are directed by:

(a) A nurse executive; or

(b) An identified registered nurse leader on a team to function at the executive level;

(7) Determine who has the authority to establish and approve hospital policies;

(8) Ensure individuals conducting business in the hospital comply with hospital policies and procedures;

(9) Adopt and implement policies and procedures in accordance with chapter 26.44 RCW to ensure suspected abuse to a child, adult dependent or developmentally disabled person is reported within one administrative day to:

- (a) Local police or appropriate law enforcement agency;
- (b) The department of health; or
- (c) Other state agencies as appropriate;

(10) Notify the department whenever any of the following events have been confirmed to have occurred:

(a) An unanticipated death or major permanent loss of function, not related to the natural course of a patient's illness or underlying condition;

(b) A patient suicide while the patient was under care in the hospital;

(c) An infant abduction or discharge to the wrong family;

(d) Sexual assault or rape of a patient or staff member while in the hospital;

(e) A hemolytic transfusion reaction involving administration of blood or blood products having major blood group incompatibilities;

(f) Surgery performed on the wrong patient or wrong body part;

(g) A failure or major malfunction of a facility system such as the heating, ventilation, fire alarm, fire sprinkler, electrical, electronic information management, or water supply which affects any patient diagnosis, treatment, or care service within the facility; or

(h) A fire which affects any patient diagnosis, treatment, or care area of the facility.

(11) Provide notification to the department as required in subsection (10) of this section within two administrative business days of hospital leaders learning of the confirmed event. The hospital is encouraged to confirm these events through a review or assessment by the hospital quality improvement or risk management processes. Each notice to the department:

(a) Must include:

(i) The hospital's name;

(ii) The type of event which is being reported from subsection (10) of this section; and

(iii) The date the event occurred;

(b) Will allow the department to be informed of events which in the interest of the public will be reviewed to determine if the department must either conduct an investigation or review the event during the next regularly scheduled on-site licensing survey;

(c) Will be confidentially maintained by the department, in accordance with the protections of the Public Disclosure Act, chapter 42.17 RCW, and other applicable laws and reporting requirements provided in RCW 70.41.150, 70.41.200, and 70.41.210; and

(d) Does not relieve a hospital from complying with any other applicable reporting or notification requirements, such as those relating to law enforcement or professional regulatory agencies.

NEW SECTION

WAC 246-320-165 Management of human resources. The purpose of the management of human resources section is to ensure the hospital provides competent staff consistent with scope of services.

Hospitals will:

(1) Establish, review, and update written job descriptions for each job classification;

(2) Conduct periodic staff performance reviews;

(3) Ensure qualified and competent staff are available to operate each department;

(4) Ensure supervision of staff;

(5) Document verification of current staff licensure, certification, or registration;

(6) Complete tuberculosis screening for new and current employees consistent with the current guidelines of the Centers for Disease Control and Prevention (CDC) as defined by WAC 246-320-99902(15);

(7) Provide orientation to the work environment;

(8) Provide information on infection control to staff upon hire and annually which includes:

(a) Education on general infection control in accordance with WAC 296-62-08001 bloodborne pathogens exposure control; and

(b) General and department specific infection control measures related to the work of each department in which the staff works; and

(9) Establish and implement an education plan that verifies or arranges for the appropriate education and training of staff on prevention, transmission, and treatment of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) consistent with RCW 70.24.310.

NEW SECTION

WAC 246-320-185 Medical staff. The purpose of the medical staff section is to contribute to a safe and adequate patient care environment through the development of a medical staff structure and mechanisms to assure consistent clinical competence.

The hospital medical staff will:

(1) Adopt medical staff bylaws, rules, and regulations that define the medical staff, the organizational structure of the medical staff and address:

(a) Qualifications for membership;

(b) Verification of application data;

(c) Appointment process;

(d) Reappointment process;

(e) The length of appointment and reappointment;

(f) Process for granting of delineated clinical privileges;

(g) Provision for continuous care of patients;

(h) Assessment of credentialed practitioner's performance; and

(i) Due process;

(2) Include licensed physicians and may include other individuals granted privileges by the governing authority to provide patient care services; and

(3) Forward recommendations for membership, initial, renewed, or revised clinical privileges, in accordance with

the bylaws, rules and regulations, and policies of the medical staff to the governing authority for action.

NEW SECTION

WAC 246-320-205 Management of information. The purpose of the management of information section is to obtain, manage, and use information to improve patient outcomes and the performance of the hospital in patient care, governance, management, and support services.

Hospitals will:

- (1) Facilitate patient care by providing medical staff and other practitioners timely access to information systems, resources, and services;
- (2) Maintain confidentiality, security, and integrity of data and information;
- (3) Initiate and maintain a medical record for every individual assessed or treated including a process to review records for completeness, accuracy, and timeliness. Medical records must:
 - (a) Contain information to identify the patient, the patient's clinical data to support the diagnosis, course and results of treatment, author identification, consent documents, and promote continuity of care;
 - (b) Be accurately written, dated, timed, promptly filed, retained in accordance with RCW 70.41.190 and chapter 5.46 RCW, and accessible;
 - (c) Indicate:
 - (i) The legally authorized practitioner authenticated the medical record after the record was transcribed; and
 - (ii) Entries are dated and authenticated in a timely manner;
 - (d) Include verbal orders by authorized individuals which are accepted and transcribed by qualified personnel;
 - (4) Establish a systematic method for identifying each medical record(s) to allow ready identification of area of service, filing, and retrieval of all the patient's record(s); and
 - (5) Adopt and implement policies and procedures that address:
 - (a) Access to and release of confidential data in medical records in accordance with chapter 70.02 RCW; and
 - (b) Transmittal of pertinent medical data to ensure continuity of care.

NEW SECTION

WAC 246-320-225 Improving organizational performance. The purpose of the improving organizational performance section is to ensure that performance improvement activities of staff, medical staff, and outside contractors result in continuous improvement of patient health outcomes.

Hospitals will:

- (1) Have a hospital-wide approach to process design and performance measurement, assessment, and improvement of patient care services in accordance with RCW 70.41.200 and including, but not limited to:
 - (a) A written performance improvement plan that is periodically evaluated and approved by the governing authority;

- (b) Performance improvement activities which are collaborative and interdisciplinary and include at least one member of the governing authority; and

- (c) Review of serious or undesirable patient outcomes in a timely manner;

- (2) Systematically collect and assess data on important processes or outcomes related to patient care and organizational functions. The hospital must prioritize and take appropriate action to improve and/or continue measurement in response to data assessment. The hospital will collect and assess data including, but not limited to:

- (a) Processes or outcomes related to:

- (i) Operative, other invasive, and noninvasive procedures that place patients at risk;

- (ii) Infection rates;

- (iii) Mortality;

- (iv) Medication use;

- (v) Hospital incurred injuries, such as, but not limited to, falls and restraint use;

- (vi) Events listed in WAC 246-320-145 (10)(a) through (f);

- (vii) Discrepancies or patterns of discrepancies between preoperative and postoperative (including pathologic) diagnosis, including those identified during the pathologic review of specimens removed during surgical or invasive procedures;

- (viii) Significant adverse drug reactions (as defined by the hospital);

- (ix) Confirmed transfusion reactions;

- (x) Adverse events or patterns of adverse events during anesthesia use; and

- (xi) Other hospital specific measurements;

- (b) The needs, expectations, and satisfaction of patients; and

- (c) Quality control and risk management activities.

NEW SECTION

WAC 246-320-245 Patient rights and organizational ethics. The purpose of the patient rights and organizational ethics section is to help improve patient outcomes by respecting each patient and conducting all relationships with patients and the public in an ethical manner.

Hospitals will:

- (1) Provide patients with a written statement of patients rights;

- (2) Respect, inform, and support a patient's right to treatment and service by adopting and implementing policies and procedures that:

- (a) Ensure the patient's right to:

- (i) Confidentiality, privacy, security, complaint resolution, spiritual care, and communication. If communication restrictions are necessary for patient care and safety, they are documented and explained to the patient and family;

- (ii) Access protective services; and

- (iii) Be involved in all aspects of their care including:

- (A) Their right to refuse care and treatment; and

- (B) Resolving dilemmas about care decisions;

- (b) Result in:

- (i) Obtaining informed consent;

- (ii) Participation of family in care decisions when appropriate;
- (c) Address ethical issues in patient care, including:
 - (i) Obtaining and honoring advance directives;
 - (ii) Withholding resuscitative services and forgoing or withdrawing life-sustaining treatment; and
 - (iii) Providing care at the end of life;
- (d) Ensure procurement and donation of organs and other tissues, if done, is in accordance with RCW 68.50.500 and 68.50.560, medical staff input and family/surrogate decision-makers direction;
- (e) Address research, investigation, and clinical trials including:
 - (i) Internal procedures to authorize the research;
 - (ii) Assurance that practitioners follow informed consent laws; and
 - (iii) Assurance that if the patient refuses to participate, their refusal will not compromise their access to services.

NEW SECTION

WAC 246-320-265 Infection control program. The purpose of the infection control program section is to identify and reduce the risk of acquiring and transmitting nosocomial infections and communicable diseases between patients, employees, medical staff, volunteers, and visitors.

Hospitals must develop and implement an infection control program and will:

- (1) Designate a member or members of the staff to:
 - (a) Oversee, review, evaluate, and approve the activities of the infection control program and the infection control aspects of appropriate hospital policies and procedures; and
 - (b) Provide consultation;
- (2) Assure staff managing the infection control program have:
 - (a) Documented evidence of a minimum of two years experience in a health related field; and
 - (b) Training in the principles and practices of infection control;
 - (3) Adopt and implement written policies and procedures consistent with the published guidelines of the centers for disease control and prevention (CDC) regarding infection control in hospitals, to guide the staff. Where appropriate, policies and procedures are specific to the service area and address:
 - (a) Receipt, use, disposal, processing, or reuse of hospital and nonhospital equipment to assure prevention of disease transmission;
 - (b) Prevention of cross contamination between soiled and clean items during sorting, processing, transporting, and storage;
 - (c) Environmental management and housekeeping functions, including:
 - (i) The process for approval of disinfectants, sanitation procedures, and equipment;
 - (ii) Cleaning areas used for surgical procedures as appropriate, before, between, and after cases;
 - (iii) General hospital-wide daily and periodic cleaning; and
 - (iv) A laundry and linen system that will ensure:

- (A) The supply of linen/laundry is adequate to meet the needs of the hospital and patients;
- (B) Standards used for processing linens assure that clean linen/laundry is free of toxic residues and within industry standard pH range(s); and
- (C) Processing and storage in accordance with WAC 246-320-595 (3);
- (d) Occupational health consistent with current practice;
- (e) Attire;
- (f) Traffic patterns;
- (g) Antisepsis and hand washing;
- (h) Scrub technique and surgical preparation;
- (i) Biohazardous waste management in accordance with applicable federal, state, and local regulations;
- (j) Barrier and transmission precautions; and
- (k) Pharmacy and therapeutics; and
- (4) Establish and implement a plan for:
 - (a) Public health coordination, including a system for reporting communicable diseases in accordance with chapter 246-100 WAC Communicable and certain other diseases; and
 - (b) Surveillance and investigation consistent with WAC 246-320-225 Improving organizational performance.

NEW SECTION

WAC 246-320-285 Pharmacy services. The purpose of the pharmacy services section is to assure that patient pharmaceutical needs are met in a planned and organized manner.

Hospitals must meet the requirements in chapter 246-873 WAC board of pharmacy, and will:

- (1) Prepare, dispense, and administer medications in accordance with current law, regulation, licensure, and professional standards of practice;
- (2) Assure medication use processes are organized and systematic throughout the hospital under direction of a pharmacist and coordinated with the medical staff;
- (3) Have a process for selection of medications based on objective evaluation of their relative therapeutic merits, safety, and cost; and
- (4) Adopt and implement policies and procedures that support safe storing, handling, managing, controlling, prescribing, dispensing, and administering medications in accordance with chapter 246-873 WAC board of pharmacy and address:
 - (a) Prescribing and procuring medications not available on-site;
 - (b) Ensuring prescriptions or orders are verified and patients are identified before medication is administered; and
 - (c) Ensuring medication effects on patients are monitored and documented.

NEW SECTION

WAC 246-320-305 Food and nutrition services. The purpose of the food and nutrition services section is to assure that patients nutritional needs are met in a planned and organized manner.

Hospitals will:

(1) Designate an individual who is qualified by experience, education, or training to be responsible for management of food and nutrition services;

(2) Designate a registered dietitian to be responsible for policies and procedures which address providing adequate nutritional care for patients;

(3) Have a registered dietitian who is available to assess nutritional status and plan, when indicated by a patient's individual nutritional risk screen;

(4) Develop and regularly update an interdisciplinary plan for medical nutritional therapy based on current standards for patients at nutritional risk. Monitor and document each patient's response to the medical nutritional therapy plan in the medical record;

(5) Provide meals and document, implement, and monitor a system to assure meals are nutritionally balanced, planned in advance, and respect patient's cultural diversity; and

(6) Adopt and implement policies and procedures to assure that food service complies with chapter 246-215 WAC Food service.

NEW SECTION

WAC 246-320-325 Laboratory, imaging, and other diagnostic, treatment or therapeutic services. Hospitals will:

(1) If providing laboratory services, adopt and implement policies and procedures which require availability of pathology and clinical laboratory services on a timely basis and reflect accepted standards of care for those services;

(2) If providing imaging services, adopt and implement policies and procedures which reflect accepted standards of care for that service; and

(3) If providing other diagnostic, treatment or therapeutic services, adopt and implement policies and procedures which reflect accepted standards of care for those services.

NEW SECTION

WAC 246-320-345 Inpatient care services. The purpose of the inpatient care services section is to guide the development of the plan for patient care. This is accomplished by ensuring availability of materials and resources and through establishing, monitoring, and enforcing policies and procedures that promote the delivery of quality health care.

Hospitals will:

(1) Provide sufficient and appropriate personnel, space, equipment, reference materials, and supplies for the care and treatment of patients;

(2) Have a registered nurse in the hospital at all times and available for consultation;

(3) Have a mechanism to plan and document care that is provided in an interdisciplinary and collaborative manner, including:

(a) Development of an individualized patient plan of care, when appropriate; and

(b) Periodic review and revision based on reassessment of patient condition;

(4) Adopt and implement patient care policies and procedures that are designed to guide personnel, and review periodically, and revise as necessary to reflect current practice;

(5) Have patient care policies and procedures which address:

(a) Criteria for admission of patients to general and specialized patient care service areas;

(b) Reliable method for personal identification of each patient;

(c) Conditions that require transfer of patients within the facility to specialized patient care areas and to outside facilities;

(d) Identifying potential patients who are organ and/or tissue donors;

(e) Patient safety measures;

(f) Staff access to patient areas;

(g) Use of restraints;

(h) Patient care orders, including:

(i) Who can give and receive orders as defined by the hospital and consistent with professional licensing laws;

(ii) Written orders authenticated by a legally authorized practitioner for all drugs, intravenous solutions, blood, medical treatments, and nutrition; and

(iii) Authentication of orders in a timely manner;

(i) Use of preestablished patient care guidelines or protocols. When used, they must be documented in the medical record and preapproved or authenticated by an authorized practitioner;

(j) Care and handling of persons whose conditions require special medical or medical-legal consideration;

(k) Medications meeting requirements in chapter 246-873 WAC board of pharmacy and WAC 246-320-285 Pharmacy services;

(l) A hospital-approved procedure for double checking certain drugs, biologicals, and agents by appropriately licensed personnel;

(m) Emergency drugs, including:

(i) Immediate access; and

(ii) Dosages appropriate to the patient population;

(n) Preparation and administration of intravenous solutions, medications, and admixtures developed under the direction of a pharmacist;

(o) Preparation and administration of blood and blood products;

(p) Anesthesia services; and

(q) Discharge planning;

(6) Complete and document:

(a) An initial assessment of each patient's physical condition, emotional, and social needs. The assessment is based upon the patient's diagnosis, care setting, desire for care, response to any previous treatment, consent to treatment, and education needs. Initial assessment includes:

(i) Patient history and physical assessment;

(ii) Current needs;

(iii) Need for discharge planning; and

(iv) Immunization status for pediatric patients;

(b) Current physical examination, within thirty days prior to admission, with update as needed by an authorized practitioner on a timely basis if patient status has changed;

(c) Additional specialized assessments when warranted by the patient's condition or needs, including:

- (i) Nutritional status;
- (ii) Functional status; and
- (iii) Social, psychological, and/or physiological status;
- (d) Reassessments in accordance with plan of care and patient's condition; and
- (e) Discharge plans when appropriate, coordinated with:
 - (i) Inpatient and family or caregiver as appropriate; and
 - (ii) Receiving agency or agencies, when necessary.

NEW SECTION

WAC 246-320-365 Specialized patient care services.

The purpose of the specialized patient care services section is to guide the development of the plan for patient care. This is accomplished by ensuring availability of materials and resources and through establishing, monitoring, and enforcing policies and procedures that promote the delivery of quality health care in specialized patient care areas.

Hospitals will:

- (1) Meet the requirements in Inpatient care services, WAC 246-320-345;
- (2) Adopt and implement policies and procedures which address accepted standards of care for each specialty service;
- (3) Assure physician oversight for each specialty service by a physician with experience in those specialized services;
- (4) Assure staff for each nursing service area are supervised by a registered nurse who provides a leadership role to plan, provide, and coordinate care;
- (5) If providing surgery and interventional services:
 - (a) Adopt and implement policies and procedures that address appropriate access:
 - (i) To areas where invasive procedures are performed; and
 - (ii) To information regarding practitioner's delineated privileges for operating room staff;
 - (b) Provide:
 - (i) Emergency equipment, supplies, and services available in a timely manner and appropriate for the scope of service; and
 - (ii) Separate refrigerated storage equipment with temperature alarms, when blood is stored in the surgical department;
- (6) If providing a post anesthesia recovery unit (PACU), adopt and implement written policies and procedures requiring:
 - (a) The availability of an authorized practitioner in the facility capable of managing complications and providing cardiopulmonary resuscitation for patients when patients are in the PACU; and
 - (b) The immediate availability to the PACU of a registered nurse trained and current in advanced cardiac life support measures;
- (7) If providing obstetrical services:
 - (a) Have capability to perform cesarean sections twenty-four hours per day; or
 - (b) Meet the following criteria when the hospital does not have twenty-four hour cesarean capability:

(i) Limit planned obstetrical admissions to "low risk" obstetrical patients as defined in WAC 246-329-010(13) childbirth centers;

(ii) Inform each obstetrical patient in writing, prior to the planned admission, of the hospital's limited obstetrical services as well as the transportation and transfer agreements;

(iii) Maintain current written agreements for adequately staffed ambulance and/or air transport services to be available twenty-four hours per day; and

(iv) Maintain current written agreements with another hospital to admit the transferred obstetrical patients;

(c) Ensure one licensed nurse trained in neonatal resuscitation is in the hospital when infants are present;

(8) If providing an intermediate care nursery, have nursing, laboratory, pharmacy, radiology, and respiratory care services appropriate for infants:

(a) Available in a timely manner; and

(b) In the hospital during assisted ventilation;

(c) Ensure one licensed nurse trained in neonatal resuscitation is in the hospital when infants are present;

(9) If providing a neonatal intensive care nursery, have:

(a) Nursing, laboratory, pharmacy, radiology, and respiratory care services appropriate for neonates available in the hospital at all times;

(b) An anesthesia practitioner, neonatologist, and a pharmacist on call and available in a timely manner twenty-four hours a day; and

(c) One licensed nurse trained in neonatal resuscitation in the hospital when infants are present;

(10) If providing a critical care unit or services, have:

(a) At least two licensed nursing personnel skilled and trained in care of critical care patients on duty in the hospital at all times when patients are present, and:

(i) Immediately available to provide care to patients admitted to the critical care area; and

(ii) Trained and current in cardiopulmonary resuscitation including at least one registered nurse with:

(A) Training in the safe and effective use of the specialized equipment and procedures employed in the particular area; and

(B) Successful completion of an advanced cardiac life support training program; and

(b) Laboratory, radiology, and respiratory care services available in a timely manner;

(11) If providing an alcoholism and/or chemical dependency unit or services:

(a) Adopt and implement policies and procedures that address development, implementation, and review of the individualized treatment plan, including the participation of the multidisciplinary treatment team, the patient, and the family, as appropriate;

(b) Ensure provision of patient privacy for interviewing, group and individual counseling, physical examinations, and social activities of patients; and

(c) Provide staff in accordance with WAC 246-324-170(3);

(12) If providing a psychiatric unit or services:

(a) Adopt and implement policies and procedures that address development, implementation, and review of the individualized treatment plan, including the participation of

the multidisciplinary treatment team, the patient, and the family, as appropriate;

(b) Ensure provision of patient privacy for interviewing, group and individual counseling, physical examinations, and social activities of patients;

(c) Provide staff in accordance with WAC 246-322-170(3); and

(d) Provide:

(i) Separate patient sleeping rooms for children and adults;

(ii) Access to at least one seclusion room;

(iii) For close observation of patients;

(13) If providing a long-term care unit or services, provide an activities program designed to encourage each long-term care patient to maintain or attain normal activity and achieve an optimal level of independence;

(14) If providing an emergency care unit or services, provide basic, outpatient emergency care including:

(a) Capability to perform emergency triage and medical screening exam twenty-four hours per day;

(b) At least one registered nurse skilled and trained in care of emergency department patients on duty in the hospital at all times, and:

(i) Immediately available to provide care; and

(ii) Trained and current in advanced cardiac life support;

(c) Names and telephone numbers of medical and other staff on call must be posted; and

(d) Communication with agencies as indicated by patient condition;

(15) If providing renal dialysis service:

(a) Meet WAC 246-320-99902(2) for:

(i) The cleaning and sterilization procedures if dialyzers are reused;

(ii) Water treatment, if necessary to ensure water quality; and

(iii) Water testing for bacterial contamination and chemical purity;

(b) Test dialysis machine for bacterial contamination monthly or demonstrate a quality assurance program establishing effectiveness of disinfection methods and intervals;

(c) Take appropriate measures to prevent contamination, including backflow prevention in accordance with WAC 246-320-525 (4)(a);

(d) Provide for the availability of any special dialyzing solutions required by a patient; and

(e) Through a contract provider, that provider must meet the requirements in this section.

NEW SECTION

WAC 246-320-385 Outpatient care services. The purpose of the outpatient care services section is to guide the development of the plan for patient care. This is accomplished by ensuring availability of materials and resources and through establishing, monitoring, and enforcing policies and procedures that promote the delivery of quality health care.

Hospitals will:

(1) Meet requirements in WAC 246-320-345 (1), (3), and (4) inpatient care services;

(2) Assure appropriate physician oversight for outpatient services;

(3) Provide patient services in accordance with a written order or protocol by an authorized practitioner; and

(4) Explain a patient's plan of care, when needed, to the patient, their family, and as appropriate, social network and support system.

NEW SECTION

WAC 246-320-405 Management of environment for care. The purpose of the management of environment for care section is to reduce and control environmental hazards and risks, prevent accidents and injuries, and maintain safe conditions for patients, visitors, and staff.

(1) The hospital will designate a person or persons responsible to develop, implement, monitor, and follow-up on safety, security, hazardous materials, emergency preparedness, life safety, patient related technology, utility system, and physical plant elements of the management plan.

(2) Safety. The hospital will:

(a) Establish and implement a plan to:

(i) Maintain a physical environment free of hazards; and

(ii) Reduce the risk of injury to patients, staff, and visitors;

(b) Report and investigate safety related incidents and when appropriate correct and/or take steps to avoid reoccurrence in the future; and

(c) Educate and review periodically with staff, policies and procedures relating to safety and job-related hazards.

(3) Security. The hospital will:

(a) Establish and implement a plan to maintain a secure environment for patients, visitors, and staff, including a plan to prevent abduction of patients;

(b) Educate staff on security procedures; and

(c) If they have a designated security staff, assure security staff have a minimum level of training and competency commensurate with their assigned responsibility, as defined by the hospital.

(4) Hazardous materials and waste. The hospital will:

(a) Establish and maintain a program to safely control hazardous materials and waste in accordance with applicable federal, state, and local regulations;

(b) Provide space and equipment for safe handling and storage of hazardous materials and waste;

(c) Investigate all hazardous materials or waste spills, exposures, and other incidents, and report to appropriate agency(s);

(d) Educate staff on policies and procedures relating to safe control of hazardous materials and waste.

(5) Emergency preparedness. The hospital will:

(a) Establish and implement a disaster plan designed to meet both internal and external disasters. The plan is:

(i) Specific to the hospital;

(ii) Relevant to the area;

(iii) Internally implementable, twenty-four hours a day, seven days a week; and

(iv) Reviewed and revised periodically;

(b) Ensure the disaster plan identifies:

(i) Who is responsible for each aspect of the plan; and

- (ii) Essential and key personnel who would respond to a disaster;
- (c) Include in the plan:
 - (i) Provision for staff education and training; and
 - (ii) A debriefing and evaluation after each disaster incident or drill.
- (6) Life safety. The hospital will:
 - (a) Establish and implement a plan to maintain a fire-safe environment of care that meets fire protection requirements established by the Washington state patrol, fire protection bureau;
 - (b) Investigate fire protection deficiencies, failures, and user errors; and
 - (c) Orient, educate, and drill staff on policies and procedures relating to life safety management and emergencies.
- (7) Patient related technologies. The hospital will:
 - (a) Establish and implement a plan to:
 - (i) Complete a technical and an engineering review to ensure that patient related technology will function safely and with appropriate building support systems;
 - (ii) Inventory all patient related technologies that require preventive maintenance;
 - (iii) Address and document preventive maintenance (PM); and
 - (iv) Assure quality delivery of service, independent of service vendor or methodology;
 - (b) Investigate, report, and evaluate procedures in response to system failures; and
 - (c) Educate staff regarding relevant patient related medical technology.
- (8) Utility systems. The hospital will:
 - (a) Establish and implement a plan to:
 - (i) Maintain a safe, controlled, comfortable environment;
 - (ii) Assess and minimize risks of utility system failures, and ensure operational reliability of utility systems;
 - (iii) Investigate utility systems management problems, failures, or user errors and report incidents and corrective actions; and
 - (iv) Address and document preventive maintenance (PM);
 - (b) Educate staff on utility management policies and procedures.
- (9) Physical plant. The hospital will provide:
 - (a) Storage;
 - (b) Plumbing with:
 - (i) A water supply providing hot and cold water under pressure which conforms to the quality standards of the department;
 - (ii) Hot water supplied for bathing and handwashing purposes not exceeding 120°F;
 - (iii) The cross connection controls meeting requirements in WAC 246-320-525 (4)(a); and
 - (iv) Medical gas piping meeting requirements in WAC 246-320-99902 (6) and (10);
 - (c) Ventilation:
 - (i) To prevent objectionable odors and/or excessive condensation; and
 - (ii) With air pressure relationships meeting the requirements in WAC 246-320-525 (Table 525-3);

- (d) Interior finishes suitable to the function in accordance with WAC 246-320-525(6);
- (e) Electrical with:
 - (i) Patient call systems in accordance with WAC 246-320-525 (Table 525-1); and
 - (ii) Tamper resistant receptacles in waiting areas and where noted in Table 525-5 and WAC 246-320-99902(3).

NEW SECTION

WAC 246-320-500 Applicability of WAC 246-320-500 through 246-320-99902. The purpose of the new construction regulations is to provide minimum standards for a safe and effective patient care environment consistent with other applicable rules and regulations without redundancy and contradictory requirements. Rules allow flexibility in achieving desired outcomes and enable hospitals to respond to changes in technologies and health care innovations.

(1) These regulations apply to a hospital as defined in RCW 70.41.020:

- (a) Including:
 - (i) New buildings to be licensed as a hospital;
 - (ii) Conversion of an existing building or portion thereof for use as a hospital;
 - (iii) Additions to an existing hospital;
 - (iv) Alterations to an existing hospital; and
 - (v) Buildings or portions of buildings licensed as a hospital and used for outpatient care facilities;
- (b) Excluding nonpatient care areas used exclusively for administration functions.

(2) The requirements of chapter 246-320 WAC in effect at the time the application, fee, and construction documents are submitted to the department for review will apply for the duration of the construction project.

NEW SECTION

WAC 246-320-505 Design, construction review, and approval of plans. (1) Drawings and specifications for new construction, excluding minor alterations, must be prepared by, or under the direction of, an architect registered under chapter 18.08 RCW. The services of a consulting engineer registered under chapter 18.43 RCW must be used for the various branches of the work where appropriate. The services of a registered professional engineer may be used in lieu of the services of an architect if work involves engineering only.

(2) A hospital must submit construction documents for proposed new construction to the department for review and approval prior to occupying the new construction, as specified in this subsection, with the exception of administration areas that do not affect fire and life safety, mechanical and electrical for patient care areas. Compliance with these standards and regulations does not relieve the hospital of the need to comply with applicable state and local building and zoning codes. The construction documents must include:

- (a) A written program containing, at a minimum:
 - (i) Information concerning services to be provided and operational methods to be used; and

(ii) A plan to show how they will ensure the health and safety of occupants during construction and installation of finishes. This includes taking appropriate infection control measures, keeping the surrounding area free of dust and fumes, and assuring rooms or areas are well-ventilated, unoccupied, and unavailable for use until free of volatile fumes and odors;

(b) Drawings and specifications to include coordinated architectural, mechanical, and electrical work. Each room, area, and item of fixed equipment and major movable equipment must be identified on all drawings to demonstrate that the required facilities for each function are provided; and

(c) Floor plan of the existing building showing the alterations and additions, and indicating:

(i) Location of any service or support areas; and

(ii) Required paths of exit serving the alterations or additions.

(3) A hospital will:

(a) Respond in writing when the department requests additional or corrected construction documents;

(b) Notify the department in writing when construction has commenced;

(c) Submit to the department for review any addenda or modifications to the construction documents;

(d) Assure construction is completed in compliance with the final "department approved" documents; and

(e) Notify the department in writing when construction is completed and include a copy of the local jurisdiction's approval for occupancy.

(4) A hospital will not use any new or remodeled areas until:

(a) The construction documents are approved by the department; and

(b) The local jurisdictions have issued an approval to occupy.

NEW SECTION

WAC 246-320-515 Site and site development. Hospitals will:

(1) Provide a site with:

(a) Adequate utilities meeting requirements in WAC 246-320-525 (6)(a),(i), and (k);

(b) Potable water supply meeting requirements in WAC 246-320-99902(14) and chapter 246-290 WAC Class "A" public water systems or chapter 246-291 WAC Class "B" public water systems;

(c) Natural drainage or properly designed/engineered drainage system;

(d) Public or on-site sanitary sewage utilities meeting requirements in chapter 246-271 WAC Public sewage or chapter 246-272 WAC On-site sewage systems;

(e) Access to community emergency services; and

(f) Convenient access to public transportation where available;

(2) Provide parking area, drives, and walkways:

(a) Convenient for patients, staff, and visitors, while avoiding interference with patient privacy and comfort;

(b) Arranged to prevent conflicting traffic between service, patient, staff, and emergency access vehicles;

(c) With surfaces useable in all weather and traffic conditions; and

(d) Illuminated at night;

(3) Provide service roads and parking for service and emergency vehicles;

(4) Plan sufficient space and location for:

(a) Loading dock that is not adjacent to mechanical air intakes;

(b) Garbage storage and disposal;

(c) Service entrance close to storage and elevators;

(d) Access for emergency vehicles;

(e) Heliport service, if planned; and

(f) Oxygen tank or other bulk gas or liquid storage if planned.

NEW SECTION

WAC 246-320-525 General design. Hospitals will:

(1) Meet all the general design elements in this section for patient care and support areas as described in WAC 246-320-535 through 246-320-99902;

(2) Assure architectural components meet WAC 246-320-99902(9), including:

(a) Aisles between fixed elements having sufficient clear width to allow unimpeded movement of equipment and personnel within rooms or suites;

(b) Ceiling heights in occupied areas or areas intended for patient use must be sufficiently high to meet the functional needs and equipment requirements of the space. Suspended tracks, rails, lights, or other obstructions located in path of travel can not be less than seven feet above finished floor to lowest point of obstruction;

(c) A corridor system throughout the hospital designed for traffic circulation providing patient privacy and preventing through traffic in examination, observation, treatment, and diagnostic areas, with:

(i) Width of eight feet and restrictions of no more than seven inches for nonambulatory patient areas;

(ii) Minimum existing width of seven feet permitted in alteration projects; and

(iii) Five feet width for corridors serving ambulatory patient traffic;

(d) Handrails on both sides of corridors on long-term care units and inpatient orthopedic and rehabilitation units;

(e) Doors:

(i) With minimum clear opening of three feet ten inches for patient care areas and two feet ten inches elsewhere. Existing clear opening of three feet eight inches for patient care areas and two feet six inches elsewhere are permitted during an alteration;

(ii) Designed to prevent swinging into corridor widths, except for small unoccupied spaces less than twenty square feet in area, telephone, electrical closets or barrier-free accessible toilets;

(iii) With provision for staff to gain immediate emergency access to patient occupied rooms or areas;

(iv) Swing outward from toilet rooms, showers, and other small rooms; and

(v) With vision panels in all pairs of opposite swinging doors;

- (f) At least one elevator in a multistory hospital designed for patient transport;
- (g) Stairways with skid-resistant floor surfaces and ramps with skid-resistant or carpeted floor surfaces;
- (h) Design and construction to control the entrance and infestation by pests;
- (i) Allowance for satisfactory amount of unobstructed light in twenty-four hour stay patient rooms (except in nurseries) with a clear glass area of at least one-tenth of the floor space meeting the following criteria:
 - (i) Windows located in an outside wall complying with one of the following:
 - (A) Twenty feet or more from another building or opposite wall or court; or
 - (B) Ten feet or more from the property line except when facing on street or public right of way greater than twenty feet in width; or
 - (ii) Relites into an interior atrium or court where the wall opposite is twenty or more feet from the relite;
 - (iii) Sills located:
 - (A) No higher than three feet above the finished floor; and
 - (B) No higher than four feet above the finished floor in critical care patient rooms;
 - (iv) Exterior grade a minimum of six inches below the window sill; and
 - (v) If any operable portions or vents are provided, use sixteen mesh screens to cover the opening;
- (3) Provide heating, ventilation, and cooling including:
 - (a) A heating and cooling system with capacity to maintain a temperature range in accordance with Table 525-3;
 - (b) Insulated piping and duct systems;
 - (c) Air balancing of distribution systems to maintain air changes, ventilation requirements, and pressure relationships meeting requirements in Table 525-3;
 - (d) An air handling duct system meeting requirements in WAC 246-320-99902(5) with:
 - (i) Fiberglass-lined ducts, if installed, serving sensitive areas with ninety percent efficiency filters installed downstream of the duct lining;
 - (ii) Fiberglass-lined ducts, if installed, meeting the erosion test method described in UL Publication #181; and
 - (iii) Fiberglass-lined ducts, if installed, will not be located downstream of humidification units;
 - (e) Use of space above ceilings for return plenums only in nonsensitive areas where exhaust and return plenums are allowed with:
 - (i) Exposed insulation on pipes and ducts meeting requirements of American Society for Testing and Materials C107; and
 - (ii) Cementitious fire proofing used on structure;
- (f) Air supply and exhaust locations meeting requirements in WAC 246-320-99902(13), including:
 - (i) Outdoor air intakes:
 - (A) Located as far as practical, on directionally different exposures whenever possible, and not less than thirty feet from:
 - (I) Combustion equipment exhaust stacks or outlets;
 - (II) Ventilation exhaust outlets from the hospital or adjoining buildings, including fume hoods and ethylene

- oxide systems, except plumbing vent stacks which may be ten feet away horizontally;
- (III) Medical-surgical vacuum and exhaust systems outlets;
- (IV) Areas that may collect vehicular exhaust and other noxious fumes; and
- (V) Cooling towers;
- (B) Which may be close to outlets that exhaust air suitable for recirculation, however, exhaust air must not short-circuit into the intakes of outdoor air units or fan systems used for smoke control; and
- (C) Serving central systems must have the bottom of the intakes located:
 - (I) As high as practical, but not less than six feet above ground level; or
 - (II) If installed above the roof, not less than three feet above the roof level;
- (ii) Required exhausts:
 - (A) Located a minimum of ten feet above ground level; and
 - (B) Located away from doors, occupied areas, and operable windows;
- (g) Filters installed in central ventilation or air conditioning systems as follows:
 - (i) Filter beds and filter efficiencies meeting requirements in Table 525-4;
 - (ii) Filter bed number two located downstream of the last component of any central air handling unit except:
 - (A) Steam injection-type humidifier permitted fifteen feet or more downstream of filter bed number two;
 - (B) Terminal reheat coils permitted downstream of filter bed number two; and
 - (C) Terminal cooling coils permitted downstream of filter bed number two with additional filtration downstream of coil meeting requirements of filter bed number two;
 - (iii) Filter frames airtight to the enclosing duct work and provided with gaskets or seals to provide positive seal against air leakage; and
 - (iv) A manometer or equivalent installed across each filter bed serving sensitive areas of central air systems;
- (h) Exhaust hoods or other approved exhaust devices provided over equipment likely to produce excessive heat, moisture, odors, or contaminants, and properly designed for intended use;
 - (i) Exhaust hoods provided in food preparation in compliance with WAC 246-320-99902(10);
 - (j) Laboratory hoods or biological safety cabinets constructed for handling infectious materials with:
 - (i) A minimum face velocity of seventy-five feet per minute at maximum operating level of sash;
 - (ii) An independent exhaust system with the exhaust fan located at the discharge end of the system;
 - (iii) Ducts with welded joints or equivalent from the hood to filter enclosure;
 - (iv) Filters in the exhaust stream rated at 99.97% efficiency by the dioctyl-phthalate (DOP) test method;
 - (v) Features designed and equipped to permit the safe removal of contaminated filters; and
 - (vi) Ventilation alarm system;

(k) Laboratory hoods or biological safety cabinets constructed for venting radioactive particulate aerosols in accordance with the Bureau of Radiological Health with:

- (i) A minimum face velocity of one hundred feet per minute at maximum operating level of sash;
- (ii) An independent exhaust system with exhaust fan at discharge end of system;
- (iii) Ducts with welded joints or equivalent from the hood to the filter enclosure;
- (iv) Exhaust stream filters with 99.97% efficiency using the DOP test method;

(v) Features designed and equipped to permit the safe removal of contaminated filters; and

(vi) Provisions for washdown;

(l) Laboratory hoods or biological safety cabinets constructed for processing strong oxidizing agents with:

- (i) A minimum face velocity of one hundred feet per minute at maximum operating level of sash;
- (ii) An independent exhaust system and explosion-proof exhaust fan at discharge end of the system;
- (iii) Ducts of welded stainless steel or equivalent throughout the exhaust system; and
- (iv) Hood and exhaust duct system equipped with complete coverage washdown facilities;

(m) Exhaust systems for ETO sterilizers with ventilation and monitoring in accordance with manufacturer's recommendations and chapter 296-62 WAC;

(4) Design and install plumbing components meeting requirements in WAC 246-320-99902(14), including:

- (a) Backflow prevention:
 - (i) Devices on plumbing fixtures, equipment, facilities, buildings, premises, or areas which may cause actual or potential cross-connections of systems in order to prevent the backflow of water or other liquids, gases, mixtures, or substances into a water distribution system or other fixtures, equipment, facilities, buildings, or areas; and
 - (ii) Meeting requirements of WAC 246-320-99902(1) for practices, procedures, interpretations, and enforcement;
- (b) Trap primers in floor drains and stand pipes subject to infrequent use;
- (c) Wrist, knee, or foot faucet controls or equivalent and gooseneck spouts without aerators on:
 - (i) Handwash sinks in patient care areas. Handwash sinks for personnel use where intended to control cross infection must be designed to permit hand washing without touching fixtures or bowl and to minimize splash and splatter; and
 - (ii) Sinks in patient toilet rooms;
- (d) Handsfree faucet controls and gooseneck spouts without aerators on scrub sinks;
- (e) Drinking fountains or equivalent at locations accessible to the public with at least one on each floor;
- (f) Insulation on:
 - (i) Hot water piping systems;
 - (ii) Cold water and drainage piping; and
 - (iii) Piping exposed to outside temperatures;
- (g) Hot water supply meeting requirements in WAC 246-320-99902(14);
- (h) Equipment to deliver hot water at point of use as follows:

- (i) Handwash and bathing fixtures at 120°F or less;
- (ii) Laundry:
 - (A) 160°F or more for laundry washers; or
 - (B) 120°F or more for laundry washers using chemical sanitization;
- (iii) Mechanical dishwashers:
 - (A) 120°F or more for mechanical dishwashers using chemical sanitization;
 - (B) 140°F or more for mechanical dishwashers using high temperature sanitization; and
 - (C) 180°F or more for sanitization cycle in high temperature mechanical dishwashers;
- (i) Sewage disposal systems meeting requirements in chapters 246-271 WAC Public sewage and 246-272 WAC On-site sewage systems;
- (j) Vacuum and medical gas, and waste gas evacuation systems meeting requirements in WAC 246-320-99902 (6), (8), (11) and Table 525-2;
- (k) If the facility is a purveyor of water supply or sewage treatment facilities, they must meet the following additional requirements:
 - (i) Chapter 246-290 WAC Class "A" public water systems;
 - (ii) Chapter 246-291 WAC Class "B" public water systems;
 - (iii) Chapter 246-271 WAC Public sewage; and
 - (iv) Chapter 246-272 WAC On-site sewage systems;
- (5) Provide electrical service meeting the requirements in WAC 246-320-99902(3) including:
 - (a) General service as follows:
 - (i) Electrical receptacle outlets meeting requirements in Table 525-5. Provide outlets with ground fault circuit interrupter when installed within five feet of wet areas, bathing facilities, dialysis stations, and at a sink plane or above except when electrical outlets are located in cabinets;
 - (ii) All patient care areas limited to twelve single electrical receptacle outlets or six duplex electrical receptacle outlets, or equivalent, per twenty amp circuit; and
 - (iii) Additional electrical receptacle outlets conveniently located to accommodate nonpatient related equipment;
 - (b) Service to critical care units and areas as follows:
 - (i) Dedicated circuits to serve designated electrical receptacle outlets located at the head of each bed;
 - (ii) Capacity limited to six single electrical receptacle outlets or three duplex electrical receptacle outlets or equivalent per twenty amp circuit; and
 - (iii) Branch circuit panels serving receptacle outlets must be located within the area they serve;
 - (c) Emergency electrical service with:
 - (i) Critical emergency power electrical receptacle outlets meeting requirements in Table 525-5; and
 - (ii) Additional emergency power and lighting meeting requirements in WAC 246-320-99902 (3) and (6);
 - (d) Lighting fixtures with:
 - (i) Number, type, and location to provide adequate illumination for the functions of each area;
 - (ii) A reading light and control, conveniently located for patient use at each bed in the patient rooms;

- (iii) Protective lens or diffusers on overhead light fixtures in:
 - (A) All patient care areas; and
 - (B) Areas where patient care equipment and supplies are processed;
- (iv) A night light or equivalent low level illumination;
- (v) Night light switches and general illumination switches located adjacent to the opening side of patient room doors, except in psychiatric patient security and seclusion rooms locate switches outside of the rooms; and
- (vi) Lighting fixtures in psychiatric security and seclusion rooms of tamper-resistant design;
- (e) Electrical/electronic equipment including:
 - (i) Communications systems meeting requirements in Table 525-1;
 - (ii) Nurse call annunciator at department or unit control point and additional control points; and
 - (iii) Film illuminators, or equivalent, accommodating at least two X-ray films in all areas where films are viewed, except in private offices;
- (6) Provide interior finishes suitable to the function of an area including:
 - (a) Floor finishes with:
 - (i) Easily cleanable and/or maintainable surfaces;
 - (ii) Skid-resistant surfaces at entrances and other areas used while wet;
 - (iii) A coved base integral with floors or top set base with toe tight to the walls; and
 - (iv) Seamless floors with integral cove base in sensitive areas;
 - (b) Carpets in areas used by patients, if installed:
 - (i) Made from easily cleanable and/or maintainable material;
 - (ii) Constructed to prevent or reduce static build-up;
 - (iii) With an average pile density of four thousand ounces per cubic yard. Exception: Loop pile carpet with density of five thousand ounce per cubic yard or greater is required in long-term care units;
 - (iv) With a maximum pile height of .312 inches;
 - (v) With padding, if used, that is water resistant and permanently bonded to the carpet backing;
 - (vi) Adhered to the floor;
 - (vii) With edges covered and top set base with toe at all wall junctures; and
 - (viii) Are not permitted in any sensitive areas, toilets, bathrooms, and areas where flooding or infection control is an issue;
 - (c) Ceiling finishes or construction with:
 - (i) Monolithic or bonded construction in patient rooms of psychiatric nursing units, security and seclusion rooms;

- (ii) Easily cleanable or maintainable surfaces;
- (iii) Smooth surface without visible joints or crevices in areas where surgical asepsis must be maintained;
- (d) Wall finishes with:
 - (i) Protection from impact in high traffic areas;
 - (ii) Easily cleanable surfaces;
 - (iii) Smooth surface without open joints or crevices in areas where surgical asepsis must be maintained; and
 - (iv) Water-resistant paint, glaze, or similar water-resistant finish extending above the splash line in all rooms or areas subject to splash or spray;
- (7) Provide bathrooms and toilet rooms with:
 - (a) Handwash sinks in each toilet, except where provided in adjoining single patient room, or connecting dressing or locker rooms;
 - (b) Skid-resistant floor surfaces in tubs and showers;
 - (c) Backing to support mounting all accessories;
 - (d) Accessories at bathing facilities, toilets, dressing rooms, and examination rooms, except in psychiatric units as follows:
 - (i) Toilet paper holder at water closets;
 - (ii) Towel bar, hook, or ring at bathing facilities; and
 - (iii) Robe hook;
 - (e) A mirror and shelving or equivalent at each hand-wash sink in:
 - (i) Toilet room;
 - (ii) Patient room;
 - (iii) Birthing room;
 - (iv) Dressing room; and
 - (v) Locker room, except where located in adjoining toilet room;
 - (f) Dispensers at all sinks, for single-use towels or equivalent, mounted to avoid contamination from splash and splatter;
 - (g) Soap dispenser or equivalent at each sink and bathing facility; and
 - (h) Grab bars that are easily cleanable, resistant to corrosion, functionally designed, and securely mounted:
 - (i) In areas designed for barrier free access meeting the requirements in WAC 51-40-1106; and
 - (ii) In areas not designed for barrier free access:
 - (A) On two sides of each standard bathtub and shower; and
 - (B) With at least one horizontal grab bar extending eighteen inches or more in front of the water closet;
 - (8) Provide signage for identification:
 - (a) Meeting requirements in WAC 51-40-1106; and
 - (b) Of electric panel boards in accordance with WAC 246-320-99902(3).

Table 525-1 COMMUNICATION SYSTEM

Area/Room Name	WAC	System Type
Surgical Facilities		
Surgery Suite	246-320-635	
All Operating Rooms		MES
PACU	246-320-645	
Recovery Stage 1		MES, PNC

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Table 525-1 COMMUNICATION SYSTEM

Area/Room Name	WAC	System Type
Recovery Stage 2		MES, PNC
Recovery Infants and Pediatrics		MES, PNC
Recovery (Electro Convulsive Therapy)		MES
Patient Holding Area		MES, PNC
Patient Induction		MES, PNC
Outpatient Preoperative		MES, PNC
Obstetrical Services		
OB Cesarean/Surgical	246-320-655	MES
Birthing (Labor Delivery Recovery)	246-320-665	MES, PNC
Infant Station		MES
Adult Station		MES, PNC
Interventional Services	246-320-675	
Cardiology/Angiography		
Cath Labs & Angio Rooms		MES
Endoscopy Recovery		MES
Bronchoscopy		MES
Lithotripsy		MES
Inpatient Services		
Nursing	246-320-685	
Medical & Surgical Beds		MES, PNC
Protective Precaution Room (Transplant)		MES, PNC
Airborne Precaution Room		MES, PNC
Specialized Patient Care Services		
Pediatrics	246-320-695	MES, PNC
Nursery		
Intermediate Care Nursery	246-320-715	MES
NICU	246-320-715	MES
Newborn	246-320-705	MES
Critical Care	246-320-725	
Coronary Care		MES, PNC
Intensive Care		MES, PNC
Alcoholism & Substance Abuse	246-320-735	MES, PNC
Psychiatric	246-320-745	
Psychiatric Activities		MES
Psychiatric Patient		MES
Psychiatric Seclusion		MES
Rehabilitation (Nursing)	246-320-755	MES, PNC
Long-Term Care	246-320-765	MES, PNC
Dialysis	246-320-775	PNC
General Requirements		
Nursing Support Area		Annunciator
Inpatient Treatment		MES
Inpatient Exam Rooms		MES
Patient Dressing		PNC
Patient Shower Bathroom & Toilet		PNC

Table 525-1 COMMUNICATION SYSTEM

Area/Room Name	WAC	System Type
Imaging Services		
General Radiology	246-320-785	
General X-ray, Fluoroscopy		MES
Mammography		MES
Needle Biopsy		MES
CT Scan		MES
MRI		MES
Nuclear Medicine	246-320-795	MES
Diagnostic & Treatment		
Emergency	246-320-805	
Trauma		MES, PNC
Treatment		MES
Exam		MES, PNC
Receiving/Triage		MES
Rehabilitation (Outpatient)	246-320-755	
Physical Therapy & Hydrotherapy		MES

NOTES:

Patient Nurse Calls installed as follows:

- Located at head of bed.
- Signals from toilet and bathing facilities to have distinctive light and distinctive audible signals.
- A properly located signal device mounted no higher than six feet above the floor and activated by a nonconductive pull cord within easy grasp by a patient slumped forward on the floors of either the toilet, bathing facility, or dressing room.
- PNC required in any area not within direct observation of staff.

Medical Emergency Signals installed as follows:

- When MES is part of a nurse call system, it must register by light at corridor door or treatment area and register by light and audible signal at a location where staff are always available.

- Call signals initiated by staff within a department by remote or other means must register at a staff control point from which assistance is always available.
 - In areas where PNC are not required, a medical emergency system is a method for staff to signal for immediate assistance. The system must signal where staff are always available and indicate location of emergency.
 - Signal device located within easy reach by staff.
 - **When both Patient Nurse Call and Medical Emergency Signal are required, installed as follows:**
 - Register by light and outside each patient station or register by light and audible signal at the nurse's station.
- Abbreviations: PNC = Patient Nurse Call MES = Medical Emergency Signal

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Tables of Information

Table 525-2 Medical Gases, Vacuum, and Waste Gas Evacuation

Area/Room Name	WAC	Number of Outlets Required			
		Oxygen	Medical Air	Nitrous Oxide*	Vacuum
Surgical Facilities					
Surgery Suite	246-320-635				
Cystoscopic		1	1		2
Operating Room		2	1	1	2(B)
Operating Patient Holding		1			1
PACU	246-320-645				
Recovery Stage 1		1			2
Recovery Stage 2		1(D)			1(D)
Recovery (ECT)		1			1
Recovery (Infants and Pediatrics)		1	1		1
Obstetrical Services					
OB Cesarean/Surgical	246-320-655	1(A)	1(A)	1	2(A)
Birthing (Labor Delivery Recovery)	246-320-665	1(A)	1(A)		1(A)

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Tables of Information

Table 525-2 Medical Gases, Vacuum, and Waste Gas Evacuation

Area/Room Name	WAC	Oxygen	Number of Outlets Required		
			Medical Air	Nitrous Oxide*	Vacuum
Interventional Services	246-320-675				
Cardiology/Angiography					
Cath Labs & Angio Rooms		1	1	(C)	2
Electrophysiology		1	1	(C)	2
Endoscopy		1			1
Bronchoscopy		1			1
Lithotripsy		1	1	(C)	1
Inpatient Services					
Nursing, Medical & Surgical	246-320-685	1			1
Protective Precaution Room (Transplant)		1			1
Airborne Precaution Room	246-320-685	1			1
Specialized Patient Care Services					
Pediatrics	246-320-695	1	1		1
Nursery					
Intermediate Care Nursery	246-320-715	2	2		1
NICU	246-320-715	2	2		1
Newborn	246-320-705	1	1		1
Critical Care	246-320-725				
Coronary Care		1	1		2
Intensive Care		1	1		2
Alcoholism & Substance Abuse	246-320-735	1(E)			1(E)
Psychiatric (Medical)	246-320-745	1			1
Rehabilitation (Nursing)	246-320-755	1			1
Long-Term Care	246-320-765	1(D)			1(D)
Dialysis	246-320-775	(D)			(D)
General Requirements					
Treatment & Exam Rooms		1			1
Imaging Services					
General Radiology	246-320-785				
General X-ray, Fluoroscopy		1(D)			1(D)
Mammography		NA	NA	NA	NA
Needle Biopsy		1(D)			1(D)
Ultrasound		1(D)			1(D)
CT Scan		1(D)			1(D)
MRI		1			1
Nuclear Medicine	246-320-795	(E)			(E)
Diagnostic & Treatment					
Emergency	246-320-805				
Trauma		2	1	(C)	2
Treatment		2	1		2
Exam		1			1

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Tables of Information

Table 525-2 Medical Gases, Vacuum, and Waste Gas Evacuation

Area/Room Name	WAC	Number of Outlets Required			
		Oxygen	Medical Air	Nitrous Oxide*	Vacuum
Rehabilitation (Outpatient)	246-320-755				
Physical Therapy & Hydrotherapy		NA	NA	NA	NA
Clinical Support Services		NA	NA	NA	NA
* Method for gas evacuation must be provided in areas where nitrous oxide is used.					
NOTES					
(A) Separate outlets for infants.				(D) Portable equipment may be used in a ratio of one for every five bed, stretcher, bassinet, or equivalent with a minimum of one unit.	
(B) If used for delivery, must include A.				(E) Portable equipment shall be provided on-site for emergent situations.	
(C) Required only when general anesthesia is used.					

Table 525-3 GENERAL PRESSURE RELATIONSHIPS, VENTILATION TEMPERATURE AND HUMIDITY OF CERTAIN HOSPITAL AREAS

Area/Room Name	WAC	Pressure Relationship to Adjacent Areas	Minimum Air Changes		All Air Exhausted Directly To Outdoors	Air Recirculated Within Room Units Evacuation	Capacity (°F) to Attain		Individual Room Temp Control	Interpretive Guidelines
			of Outdoor Air Per Hour Supplied To Room	Total Air Changes Per Hour Supplied To Room			Cooling	Heating		
Surgical Facilities										
Surgery Suite	246-320-635									
Operating Rooms with ¹⁰		P	3	15	Optional	No ¹	68	76	Yes	Refer to ASHRAE Guidelines for Recommended Humidity Limits for all areas
<i>Recirculating Air Systems</i>										
Operating Rooms with ⁶		P	15	15	Yes	No	68	76	Yes	
<i>(All Outdoor Air Systems)</i>										
Sterile Supply Room		P	4	6	Optional	No	-	72	Yes	"
PACU										
Recovery Stage 1	246-320-645	E	2	6	Optional	No ¹	75	75	Yes	"
Recovery Stage 2		E	2	6	Optional	No ¹	75	75	Yes	"
Recovery (ECT)		E	2	4	Optional	No ¹	75	75	Yes	"
Recovery Infants & Pediatrics		E	2	6	Optional	No ¹	75	75	Yes	"
Obstetrical Services										
OB Cesarean/Surgical with ¹⁰	246-320-655	P	3	15	Optional	No ¹	68	76	Yes	"
<i>Recirculating Air Systems</i>										
OB Cesarean/Surgical with ⁶	246-320-655	P	15	15	Yes	No	68	76	Yes	"
<i>All Outdoor Air Systems</i>										
Birthing (Labor Delivery Recovery)	246-320-665	P	2	4	Optional	No ¹	75	75	Yes	"
Interventional Services										
Cardiology/Angiography	246-320-675									
Cath Labs & Angio Rooms		P	2	6	Optional	No	75	80	Yes	"
Electrophysiology		P	2	6	Optional	No	75	80	Yes	"
Endoscopy		N or E	2	6	Yes	No	75	80	Yes	"

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Table 525-3 GENERAL PRESSURE RELATIONSHIPS, VENTILATION TEMPERATURE AND HUMIDITY OF CERTAIN HOSPITAL AREAS

Area/Room Name	WAC	Pressure Relationship to Adjacent Areas	Minimum	Minimum Total Air Changes Per Hour Supplied To Room	All Air Exhausted Directly To Outdoors	Air Recirculated Within Room Units Evacuation	Capacity (°F) to Attain Temperature ¹¹		Individual Room Temp Control	Interpretive Guidelines
			Air Changes of Outdoor Air Per Hour Supplied To Room				Cooling	Heating		
Bronchoscopy/Cough Inducing Procedures		N	2	12	Yes	No	-	72	Yes	"
Lithotripsy		P	2	4	Optional	Optional	75	75	Yes	"
Inpatient Services										
Nursing	246-320-685									
Medical & Surgical Beds ⁹		P	2	4	Optional	Optional	75	75	Yes	"
Protective Precaution Room		P	2	15	Optional	Optional	75	75	Yes	"
(Transplant)										
Airborne Precaution Room ³		N	2	12	Yes	No	75	75	Yes	"
Ante Room (if provided) ³		N or P	2	10	Yes	No	-	-	-	"
Specialized Patient Care Services										
Pediatrics ⁹	246-320-695	P	2	4	Optional	Optional	75	75	Yes	"
Nursery										"
Intermediate Care Nursery	246-320-715	P	5	12	Optional	No	75	80	Yes	"
NICU	246-320-715	P	5	12	Optional	No	75	80	Yes	"
Newborn	246-320-705	P	2	6	Optional	No ¹	75	80	Yes	"
Critical Care	246-320-725									"
Coronary Care		P	2	6	Optional	No	75	80	Yes	"
Intensive Care		P	2	6	Optional	No	75	80	Yes	"
Alcoholism & Substance Abuse ⁹	246-320-735	P	2	4	Optional	Optional	75	75	Yes	"
Psychiatric (Medical) ⁹	246-320-745	P	2	4	Optional	Optional	75	75	Yes	"
Rehabilitation (Nursing) ⁹	246-320-755	P	2	4	Optional	Optional	75	75	Yes	"
Long-Term Care ⁹	246-320-765	P	2	4	Optional	Optional	75	75	Yes	"
Dialysis	246-320-775									"
Patient Area		P	2	4	Optional	Optional	75	75	Yes	"
Reuse		N	4	10	Optional	Optional	75	75	Yes	"
Reverse Osmosis		P	2	6	Optional	Optional	75	75	Yes	"
Imaging Services										
General Radiology	246-320-785									
General X-ray, Fluoroscopy		NA	2	6	Optional	Optional	75	80	Yes	"
Mammography		NA	2	6	Optional	Optional	75	80	Yes	"
Needle Biopsy		NA	2	6	Optional	Optional	75	80	Yes	"
CT Scan		NA	2	6	Optional	Optional	75	80	Yes	"
MRI		NA	2	6	Optional	Optional	75	80	Yes	"
Dark Room		N	2	10	Yes	No	-	-	Yes	"
Nuclear Medicine	246-320-795	N	2	6	Yes	No				"
Diagnostic & Treatment										
Emergency	246-320-805									
Trauma ²		P	5	12	Optional	No	68	75	Yes	"
Treatment		N or P	2	6	Optional	Optional	75	75	Yes	"
Exam		N or P	2	6	Optional	Optional	-	72	Yes	"
Rehabilitation (Outpatient)	246-320-755									"

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Table 525-3 GENERAL PRESSURE RELATIONSHIPS, VENTILATION TEMPERATURE AND HUMIDITY OF CERTAIN HOSPITAL AREAS

Area/Room Name	WAC	Pressure Relationship to Adjacent Areas	Minimum	Minimum	All Air Exhausted Directly To Outdoors	Air	Capacity (°F)		Individual Room Temp Control	Interpretive Guidelines
			Changes of Outdoor Air Per Hour Supplied To Room	Total Air Changes Per Hour Supplied To Room		Recirculated Within Room Units Evacuation	to Attain Temperature ¹¹	Cooling Heating		
Physical Therapy & Hydrotherapy		N	2	6	Optional	Optional	-	80	Yes	"
General Requirements										
Treatment Room		N or P	2	6	Optional	Optional	75	75	Yes	"
Exam Room		N or P	2	6	Optional	Optional	75	75	-	"
Patient Corridor		NA	2	4	Optional	Optional				"
Patient Toilet		N	Optional	10	Yes	No	-	72	No	"
Patient Bathing		N	Optional	10	Yes	No	-	72	No	"
Clean Utility		P	2	4	Optional	Optional	-	72	No	"
Soiled Utility		N	2	10	Yes	No	-	72	No	"
Janitor's Closet		N	Optional	10	Yes	No	-	72	No	"
Medication		P	2	4	Optional	Optional	-	-	-	"
Clinical Support Services										
Receiving Storage and Distribution	246-320-565	NA	NA	NA	NA	NA				"
Central Sterilizing	246-320-575									
Clean Workroom		P	2	4	Optional	Optional	-	72	No	"
Sterile Storage										
ETO Sterilizer ⁷		N	2	10	Yes	No				"
Laundry (Part of CSSR)		N	2	10	Yes	No				"
Soiled Receiving/Decontamination		N	Optional/2	10	Yes	No	-	72	No	"
Environmental Services	246-320-585	N	2	10	Yes	No	-	72	No	"
Laundry	246-320-595									
Laundry General		N	2	10	Yes	No	-	72	No	"
Soiled Linen Sorting & Storage		N	Optional	10	Yes	No	-	72	No	"
Clean Linen Storage		P	Optional/2	2	Optional	Optional	-	72	No	"
Linen & Trash Chute Room		N	Optional	10	Yes	No	-	72	No	"
Dietary	246-320-605									
Dietary Dry Storage		NA	Optional	2	Optional	No	-	72	No	"
Food Preparation Centers ⁵		NA	2	10	Yes	No	-	72	No	"
Ware Washing		N	Optional	10	Yes	No	-	72	No	"
Lab General	246-320-625									
Bacteriology		N	2	6	Yes	No	-	72	Yes	"
Biochemistry		P	2	6	Optional	No	-	72	Yes	"
Cytology		N	2	6	Yes	No	-	72	Yes	"
Glass Washing		N	2	10	Yes	Optional	-	72	Yes	"
Histology		N	2	6	Yes	No	-	72	Yes	"
Media Transfer		P	2	4	Optional	No	-	72	Yes	"
Pathology		N	2	6	Yes	No	-	72	Yes	"
Serology		P	2	6	Optional	No	-	72	Yes	"
Sterilizing		N	Optional	10	Yes	No	-	72	Yes	"
Autopsy		N	2	12	Yes	No	-	72	Yes	"

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Table 525-3 GENERAL PRESSURE RELATIONSHIPS, VENTILATION TEMPERATURE AND HUMIDITY OF CERTAIN HOSPITAL AREAS

Area/Room Name	WAC	Pressure Relationship to Adjacent Areas	Minimum	Minimum Total Air Changes Per Hour Supplied To Room	All Air Exhausted Directly To Outdoors	Air Recirculated Within Room Units Evacuation	Capacity (°F)		Individual Room Temp Control	Interpretive Guidelines
			Changes of Outdoor Air Per Hour Supplied To Room				Cooling	Heating		
Body Holding Nonrefrigerated ⁴		N	Optional	10	Yes	No	-	72	Yes	"
Pharmacy	246-320-615	P	2	4	Optional	Optional	-	72	Yes	"

Abbreviations

N=Negative
 P=Positive
 NA=Not applicable (Continuous Direction Control Not Required)
 E=Equal

Notes:

- ¹ Recirculating room units meeting the filtering requirements for the space may be used.
- ² The term "trauma room" used in Table 525-3 is the operating room space, in the trauma center routinely used for emergency surgery. The first aid room and/or "emergency room" used for general initial treatment of accident victims may be ventilated as quoted for the "treatment room."
- ³ The airborne precaution room described in the standards might be used in the average community hospital. The assumption is the precaution procedures will be for infectious patients and the room should also be suitable for normal private patient use when not needed for airborne precaution.
- ⁴ The nonrefrigerated body-holding room would be applicable only for facilities not performing autopsies on-site and using the

space for a short period while waiting for body transfer to be completed.

⁵ Food preparation centers shall have ventilation systems with an excess of air supply for positive pressure when hoods are not in operation.

⁶ The number of air changes may be reduced when areas are not occupied if provisions are made to ensure the number of air changes required is reestablished when the space is occupied.

⁷ See WAC 246-320-99902(11) and 296-62-07355 general occupational health standards for ethylene oxide.

⁸ Consistent with scope of service and function of room.

⁹ For renovations, existing window induction units may remain.

¹⁰ May consider increasing air changes to 5 minimum air changes of outdoor air per hour supplied to room and 25 minimum total air changes per hour supplied to room per ASHRAE Guidelines.

¹¹ HVAC equipment must be designed to heat or cool to at least temperature shown.

Table 525-4 VENTILATION AND AIR CONDITIONING SYSTEMS FILTER EFFICIENCIES IN HOSPITALS

Area/Room Name	WAC	Filter Bed 1 %	Filter Bed 2 %
Surgical Facilities			
Surgery Suite	246-320-635		
All Operating Rooms		25	90
Organ Transplant		25	90 (A)
PACU	246-320-645		
Recovery Stage 1		25	90
Recovery Stage 2		25	90
Recovery Infants & Pediatrics		25	90
Recovery (ECT)		25	90
Obstetrical Services			
OB Cesarean/Surgical	246-320-655	25	90
Birthing (Labor Delivery Recovery)	246-320-665	25	90 (B)
Interventional Services			
Cardiology/Angiography	246-320-675		
Cath Labs & Angio Rooms		25	90
Endoscopy		25	90
Lithotripsy		25	90 (B)
Inpatient Services			
Nursing	246-320-685		

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Table 525-4 VENTILATION AND AIR-CONDITIONING SYSTEMS FILTER EFFICIENCIES IN HOSPITALS

Area/Room Name	WAC	Filter Bed 1 %	Filter Bed 2 %
Medical & Surgical Beds		25	90 (B)
Protective Precaution Room (Transplant)		25	90 (A)
Airborne Precaution Room	246-320-685	25	90 (B)
Ante Room (if planned)			
Specialized Patient Care Services			
Pediatrics	246-320-695	25	90 (B)
Nursery			
Intermediate Care Nursery	246-320-715	25	90 (B)
NICU	246-320-715	25	90 (B)
Newborn	246-320-705	25	90 (B)
Critical Care	246-320-725		
Coronary Care		25	90 (B)
Intensive Care		25	90 (B)
Alcoholism & Substance Abuse	246-320-735	25	90 (B)
Psychiatric (Medical)	246-320-745	25	90 (B)
Rehabilitation (Nursing)	246-320-755	25	90 (B)
Long-Term Care	246-320-765	25	90 (B)
Dialysis	246-320-775	25	90 (B)
General Requirements			
Treatment Room		25	90 (B)
Exam Room		25	90 (B)
Patient Corridor		25	90 (B)
Patient Toilet		25	90 (B)
Patient Bathing		25	90 (B)
Clean Utility		25	NA
Soiled Utility		25	NA
Janitor's Closet		25	NA
Medication		25	90 (B)
Imaging Services			
General Radiology	246-320-785		
General X-ray, Fluoroscopy		25	90 (B)
Mammography		25	90 (B)
Needle Biopsy		25	90 (B)
CT Scan		25	90 (B)
MRI		25	90 (B)
Nuclear Medicine	246-320-795		
Diagnostic & Treatment			
Emergency	246-320-805		
Trauma		25	90
Treatment		25	90 (B)
Exam		25	90 (B)
Rehabilitation (Outpatient)	246-320-755		
Physical Therapy & Hydrotherapy		25	90 (B)
Clinical Support Services			

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Table 525-4 VENTILATION AND AIR CONDITIONING SYSTEMS FILTER EFFICIENCIES IN HOSPITALS

Area/Room Name	WAC	Filter Bed 1 %	Filter Bed 2 %
Receiving Storage & Distribution	246-320-565	NA	NA
Central Sterilizing	246-320-575	25	90 (B)
Environmental Services	246-320-585	NA	NA
Laundry	246-320-595	80	NA
Dietary	246-320-605		
Food Preparation		80	NA
Storage, Bulk		25	NA
Lab	246-320-625		
Bacteriology		25	90
Biochemistry		25	NA
Cytology		25	NA
Glass Washing		25	NA
Histology		25	NA
Media Transfer		25	90
Pathology		25	NA
Serology		25	NA
Sterilizing		25	90
Autopsy		25	NA
Body Holding Nonrefrigerated		NA	NA
Pharmacy	246-320-615	25	90
Administration		25	NA

Notes

- (A) 99.9% recirculating air.
- (B) 80% acceptable with total outside air.
- NA Not applicable.

Filtration requirement in this table does not apply to renovated spaces where recirculation is optional, except for sensitive areas as defined in WAC 246-320-010.

Table 525-5 PATIENT CARE AREA SINGLE ELECTRICAL RECEPTACLE OUTLET REQUIREMENTS

Area/Room Name	WAC	Total	Critical Emergency Power	Special Requirements (Hospital Grade)
Surgical Facilities				
Surgery Suite	246-320-635			
All Operating Rooms		16	12	Hospital Grade
PACU	246-320-645			
Recovery Stage 1		6	4	Hospital Grade
Recovery Stage 2		4	2	Hospital Grade
Recovery Infants and Pediatrics		6	4	Hospital Grade
Recovery (ECT)		4	2	Hospital Grade
Obstetrical Services				
OB Cesarean/Surgical	246-320-655	16	12	Hospital Grade

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Table 525-5 PATIENT CARE AREA SINGLE ELECTRICAL RECEPTACLE OUTLET REQUIREMENTS

Area/Room Name	WAC	Total	Critical Emergency Power	Special Requirements (Hospital Grade)
Birthing (Labor Delivery Recovery)	246-320-665	6	2	Hospital Grade
Infant Station		4	2	Hospital Grade
Cardiology/Angiography				
Cath Labs & Angio Rooms		8	4	Hospital Grade
Endoscopy		8	2	Hospital Grade
		8	2	Hospital Grade
Lithotripsy		2	2	Hospital Grade
Inpatient Services				
Nursing				
Medical & Surgical Beds	246-320-685	4	2	Hospital Grade
Protective Precaution Room (Transplant)		4	2	Hospital Grade
Airborne Precaution Room	246-320-685	4	2	Hospital Grade
Specialized Patient Care Services				
Pediatrics	246-320-695	4	2	Hospital Grade (C)
Pediatric Critical Care		14	12	Hospital Grade
Nursery				
Intermediate Care Nursery	246-320-715	8	6	Hospital Grade
NICU	246-320-715	14	12	Hospital Grade
Newborn	246-320-705	4(A)	2(A)	Hospital Grade
Critical Care	246-320-725			
Coronary Care		14	12	Hospital Grade
Intensive Care		14	12	Hospital Grade
Alcoholism & Substance Abuse	246-320-735	2	0	Hospital Grade (C)
Detox beds	246-320-735	4	2	Hospital Grade (C)
Psychiatric (Medical)	246-320-745	4	2	Hospital Grade (C)
Rehabilitation (Nursing)	246-320-755	2	0	Hospital Grade
Long-Term Care	246-320-765	4	2	Hospital Grade
Dialysis (inpatient)	246-320-775	4(B)	2(B)	Hospital Grade
General Nursing Room Requirements				
Treatment Rooms		4	2	Hospital Grade
Exam Rooms		2	0	Hospital Grade (C)
Patient Toilet		per written program		
Clean Utility		2	0	
Soiled Utility		2	0	
Imaging Services				
General Radiology	246-320-785	per written program		Hospital Grade
General X-ray, Fluoroscopy		4	0	
Mammography		4	0	
Needle Biopsy		4	0	
CT Scan		4	2	
MRI		4	0	

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Table 525-5 PATIENT CARE AREA SINGLE ELECTRICAL RECEPTACLE OUTLET REQUIREMENTS

Area/Room Name	WAC	Total	Critical Emergency Power	Special Requirements (Hospital Grade)
Nuclear Medicine	246-320-795	4	0	
Diagnostic & Treatment				
Emergency	246-320-805			
Trauma		8	6	Hospital Grade
Treatment		4	2	Hospital Grade
Exam		2	0	Hospital Grade (C)
Rehabilitation (Outpatient)	246-320-755			
Physical Therapy & Hydrotherapy		2	0	Hospital Grade
Clinical Support Services				
Receiving Storage & Distribution	246-320-565	NA	NA	NA
Central Sterilizing	246-320-575	per written program		
Environmental Services	246-320-585	NA	NA	
Laundry	246-320-595	NA	NA	
Dietary	246-320-605	NA	NA	
Lab	246-320-625	per written program		
Critical Equipment		per written program		
Blood Storage		per written program		
Pharmacy	246-320-615	per written program		

- Notes**
- (A) Between every two basinet and according to program.
 - (B) Each station according to program.
 - (C) Tamper resistant safety receptacles.
 - (NA) Not Applicable (no minimum outlet requirement for nonpatient care areas).
- (a) A separate room under visual control of nursing staff located to minimize traffic with:
 - (i) A handwash sink;
 - (ii) A working surface;
 - (iii) Sturdily constructed, lockable drug storage;
 - (iv) An enclosed cabinet or equivalent for storage;
 - (v) Storage space for medication cart when appropriate;
 - (vi) Space and electrical receptacle for refrigerator; and
 - (vii) Self-closing positive latching locked entry doors; or
 - (b) Permanently affixed nurse server storage units with:
 - (i) Convenient access to a refrigerator and hand washing sink;
 - (ii) A work surface;
 - (iii) Sturdy construction; and
 - (iv) Self-closing, positive latching, automatic locking doors and/or drawers;
 - (c) Medication distribution cart(s), stored in locked room or continuously attended area; or
 - (d) Automated dispensing unit, designed and installed in accordance with chapter 246-873 WAC;
 - (6) Provide nourishment facilities in a clean room with:
 - (a) A refrigerator;
 - (b) A work counter or space unless combined with a clean utility room;
 - (c) Storage for utensils and food stuffs;
 - (d) A handwash sink unless combined with a clean utility room;
 - (e) Space for a waste container unless combined with a clean utility room;
 - (f) Dishwasher with a two-compartment sink or a three-compartment sink if area will be used to wash dishes, glasses,

NEW SECTION

WAC 246-320-535 Support facilities. Hospitals will:

- (1) Provide staff facilities with:
 - (a) Space for personal belongings;
 - (b) A toilet; and
 - (c) A handwash sink;
- (2) Provide clean storage room or area with:
 - (a) Storage shelves; and/or
 - (b) Space for carts and equipment;
- (3) Provide clean utility room with:
 - (a) A work counter;
 - (b) A handwash sink; and
 - (c) Storage space;
- (4) Provide housekeeping supply room with:
 - (a) A service sink or equivalent;
 - (b) Soap and towel dispensers or equivalent;
 - (c) A mop rack;
 - (d) Storage area for housekeeping carts, supplies, and equipment; and
 - (e) At least one housekeeping room per floor;
- (5) Provide medication distribution and storage in accordance with chapter 246-873 WAC, hospital pharmacy standards, and meeting at least one of the following:

PERMANENT

or pitchers in accordance with WAC 246-215-100 food service, equipment and utensil cleaning and sanitizing; and

(g) Self-dispensing ice machine, if needed, consistent with scope of service;

(7) Provide soiled storage room separate and with no direct connection to clean storage or utility rooms with:

(a) A clinical service sink with bedpan flushing attachment, unless a soiled utility room is on the same nursing unit or bedpan flushing devices are furnished in all toilet rooms adjoining patient rooms;

(b) Space for waste container, linen hampers, carts, and other large equipment;

(c) A handwash sink or equivalent; and

(d) Self-closing door(s);

(8) Provide soiled utility room separate and with no direct connection to clean utility or storage room with:

(a) A double-compartment sink large enough to accommodate equipment to be cleaned;

(b) A work surface;

(c) Storage cabinets sufficient to store cleaning supplies;

(d) A clinical service sink with bedpan flushing attachment unless bedpan flushing devices are furnished in all toilet rooms adjoining patient rooms;

(e) Space for waste containers, linen hampers, and other large equipment; and

(f) Self-closing door(s).

NEW SECTION

WAC 246-320-545 Maintenance, engineering, mechanical, and electrical facilities. Hospitals will:

(1) Provide boiler and/or mechanical equipment rooms with insulation, sound deadening and mechanical ventilation to minimize transfer of heat and noise to rooms occupied by patients and employees;

(2) Provide maintenance shop, if planned, located and designed for easy delivery and removal of equipment and to minimize noise and dust to the rest of the hospital with:

(a) Storage for solvents, flammable and combustible liquids in accordance with WAC 246-320-99902(11); and

(b) Storage for supplies and equipment;

(3) Provide electrical switch gear and telecommunications room(s) with mechanical ventilation and/or cooling as required to maintain adequate operating temperature for equipment;

(4) Provide area with file space and adequate storage for facility drawings, records, and operation manuals; and

(5) Provide separate room or area specifically for storage, repair, and testing of electronic or other medical equipment according to program.

NEW SECTION

WAC 246-320-555 Admitting, lobby, and medical records facilities. Hospitals will provide:

(1) Admitting, lobby, and medical records facilities with:

(a) Support facilities meeting requirements in WAC 246-320-535(4) housekeeping supply room; and

(b) Adequate storage for office equipment, forms, and supplies;

(2) An admitting area with provision for auditory privacy during interviews;

(3) A lobby area with:

(a) A waiting area;

(b) Access to public toilet(s) for each sex;

(c) A drinking fountain;

(d) A public telephone; and

(e) An information desk or directory signage;

(4) A medical records area with:

(a) Active and inactive records storage;

(b) Total space appropriate for the duration and type of storage planned; and

(c) Security.

NEW SECTION

WAC 246-320-565 Receiving, storage, and distribution facilities. Hospitals will:

(1) Provide receiving, storage, and distribution facilities with support facilities meeting the requirements in WAC 246-320-535(3) clean utility;

(2) Locate bulk and general supply storage to:

(a) Avoid disturbance to the operation of the hospital; and

(b) Prevent contamination or damage of goods during movement to and from storage;

(3) Provide bulk and general supply storage constructed in accordance with WAC 246-320-525 (2)(h), and to prevent spoilage, contamination, damage, and corrosion of goods stored therein including:

(a) Protection against inclement weather during transfer of supplies;

(b) Secured spaces with appropriate environmental conditions in accordance with federal and state laws and rules on supplies and drug storage if pharmaceuticals are stored; and

(c) Off-floor storage when required to prevent contamination and water damage to stores;

(4) Provide receiving and unloading area or areas consistent with scope of service with:

(a) Administrative work space near receiving and break-out areas;

(b) Security and protection for supplies; and

(c) Location to prevent vehicle exhaust from entering the hospital;

(5) Provide clean storage rooms designed and equipped for storage of all clean and sterilized items with:

(a) Space for shelving and/or cart storage;

(b) Fixed storage units and shelving at least six inches above floor and located for easy cleaning; and

(c) Areas used for break out not restricting egress;

(6) Provide storage consistent with scope of service for:

(a) Flammable and combustible liquid storage in accordance with WAC 246-320-99902(11);

(b) Laboratory chemicals in accordance with WAC 246-320-99902(7);

(c) Medical compressed gases in accordance with WAC 246-320-99902(6); and

(d) Gaseous oxidizing materials in accordance with WAC 246-320-99902(12) for materials including, but not limited to, oxygen, nitrous oxide, fluorine, and chlorine trif-

luoride with segregation either by space or in a separate room or separate building.

NEW SECTION

WAC 246-320-575 Central processing service facilities. Hospitals will:

- (1) Provide central processing service facilities with support facilities meeting requirements in:
 - (a) WAC 246-320-535(1) staff facilities; and
 - (b) WAC 246-320-535(4) housekeeping supply room;
- (2) Locate central processing service facilities to:
 - (a) Prevent through traffic to other hospital operations;
 - (b) Avoid contamination of clean and sterile supplies and equipment;
 - (c) Prevent objectionable heat and noise in patient care areas; and
 - (d) Facilitate delivery and return of supplies and equipment to and from other services;
- (3) Provide central processing service facilities with:
 - (a) Areas within the unit to provide for proper handling of supplies and equipment;
 - (b) Work flow designed to maintain separation of clean or sterile items from soiled or contaminated items;
 - (c) Device for communication between clean and soiled functions and between administrative and clean and soiled functions; and
 - (d) Room or area located to permit access from public areas without entering processing areas;
- (4) Locate soiled receiving and decontamination rooms to preclude transport of soiled or contaminated items through other clean areas of central processing service with:
 - (a) Facilities for receiving, disassembling, and cleaning of supplies and equipment physically separated from all clean areas of central processing service; and
 - (b) Work flow from decontamination room directly into clean preparation room;
- (5) Provide soiled receiving and decontamination room or rooms with:
 - (a) Space for soiled collection carts;
 - (b) An area with a floor drain connected to a sanitary sewage system for cleaning and disinfecting carts and large equipment unless cart wash facilities are provided elsewhere;
 - (c) At least one double-compartment sink adequately sized to accommodate the equipment being cleaned;
 - (d) Additional sinks or mechanical washers as required by types and volume of items to be processed;
 - (e) Work counter or equivalent space adjacent to each sink or mechanical washer for collection and separation of soiled or contaminated items and washed items;
 - (f) Storage for cleaning supplies and equipment;
 - (g) Handsfree handwash sink;
 - (h) Clinical service sink consistent with scope of service program;
- (6) Provide clean workroom, preparation and repackaging areas with:
 - (i) Seamless floors with integral cove base; and
 - (j) Emergency eyewash;
- (7) Provide clean workroom, preparation and repackaging areas with:
 - (a) Space and facilities arranged for assembling and packing supplies and equipment for sterilization;

- (b) Work surfaces;
- (c) Storage;
- (d) Space for mobile equipment;
- (e) A handwash sink located to prevent splash or spray on clean items; and
- (f) A separate room to avoid accumulation and spread of lint, if preparation of linen is a function in central processing;
- (7) Locate sterilizing equipment to facilitate movement of supplies/materials from assembling/packaging to storage of clean and sterile supplies with:
 - (a) Easy access for maintenance;
 - (b) Ventilation according to manufacturer;
 - (c) Unalterable air gap for drain and cross-connection control on all incoming water lines;
 - (d) Pressure sterilizers with recording thermometers and automatic controls; and
 - (e) If an ethylene oxide sterilizer is installed, include:
 - (i) Mechanical aerator;
 - (ii) Ventilation and monitoring in accordance with manufacturer's recommendations and chapter 296-62 WAC biological agents;
 - (iii) Separate room for ethylene oxide gas sterilizer and cylinder storage; and
 - (iv) Readily accessible emergency deluge shower with floor drain;
- (8) Provide separate room or area for clean and sterile items including:
 - (a) Provisions for issuance without transport through areas of central processing and sterilizing service; and
 - (b) Enclosed cabinets, or covered carts, or equivalent if storage is in the preparation area.

NEW SECTION

WAC 246-320-585 Environmental services facilities.

Hospitals will:

- (1) Provide a primary housekeeping area with:
 - (a) Storage area consistent with scope of service, including:
 - (i) Racks, bins, shelves, or cabinets;
 - (ii) Storage for pesticides, cleaning compounds, and toxic substances;
 - (iii) Space for mobile housekeeping equipment;
 - (iv) Eyewash; and
 - (v) Handwash sink;
 - (b) Cleanup area for large mobile equipment with:
 - (i) Service sink for cleaning small equipment and janitorial tools;
 - (ii) Soap dispenser and single use hand drying device; and
 - (iii) Area with floor drain for cleaning large mobile equipment unless equipment wash area is provided elsewhere; and
 - (c) Administrative area;
- (2) Provide waste handling area located to prevent objectionable smoke and odors in other areas of the hospital including:
 - (a) Storage area in a separate, well-ventilated room or outside, enclosed space with:
 - (i) Emergency shower;

- (ii) Eyewash;
- (iii) Handwash sink; and
- (iv) Floor drain connected to sanitary sewage system;
- (b) Waste container wash area, if provided, with floor drain connected to a sanitary sewage system and hose bibs with hot and cold water;
- (c) Waste dumpsters and compactor storage area with drain connected to a sanitary sewage system and hose bibs with hot and cold water; and
- (d) Incineration facilities, if planned, located in a separate well-ventilated room or outside enclosed space with incinerator, meeting requirements in WAC 246-320-99902(4) and other federal, state, and local rules and regulations.

NEW SECTION**WAC 246-320-595 Laundry and/or linen handling facilities.** Hospitals will:

- (1) Provide laundry and/or linen handling facilities with support facilities meeting requirements in:
 - (a) WAC 246-320-535(1) staff facilities; and
 - (b) WAC 246-320-535(4) housekeeping supply room;
- (2) Locate laundry and/or linen facilities to:
 - (a) Avoid through traffic to other hospital patient care areas; and
 - (b) Avoid excessive heat, noise and odors traveling to patient care areas and other departments;
- (3) Provide laundry and linen handling facilities with:
 - (a) Space for movement and storage of clean and soiled carts;
 - (b) Separate linen processing areas or rooms with:
 - (i) Capacity for receiving, holding, and sorting of soiled and clean linen consistent with scope of service;
 - (ii) Floor drain(s) located in the soiled linen area;
 - (iii) Handwash sink in soiled and clean processing areas;
 - (iv) Negative air pressure gradient with direction of air flow from clean side of room to dirty side of room if room is shared; and
 - (v) A folding area on clean side;
 - (c) Separate clean linen storage room located to avoid sources of moist or contaminated air with:
 - (i) Storage for reserve supply of linens, blankets, and pillows; and
 - (ii) Space for carts and/or shelves;
 - (d) The following additional provisions if laundry is done on site:
 - (i) Equipment capacity for processing laundry consistent with scope of service;
 - (ii) Arrangement for uninterrupted work flow from soiled to clean function;
 - (iii) Commercial washing machine(s);
 - (iv) Floor drains consistent with scope of service or as required by equipment;
 - (v) Commercial dryer(s);
 - (vi) Dryer exhaust to the exterior and make-up air; and
 - (vii) Sewing area;
- (4) If commercial laundry service is used, provide separate clean and soiled storage rooms, located for convenient dispatch to vendor.

NEW SECTION**WAC 246-320-605 Food and nutrition facilities.** Hospitals will:

- (1) Meet the requirements in chapter 246-215 WAC Food service;
 - (2) Provide food and nutrition facilities with support facilities meeting requirements in:
 - (a) WAC 246-320-535(1) staff facilities, with door closures if opening directly into food preparation or storage areas; and
 - (b) WAC 246-320-535(4) housekeeping supply room;
 - (3) Locate dietary facility to prevent through traffic to other hospital operations with:
 - (a) Kitchen area located to:
 - (i) Prevent unnecessary traffic through dietary department;
 - (ii) Avoid food contamination from other hospital operations; and
 - (iii) Prevent objectionable heat, noise, and odors to patient care areas;
 - (b) Dietary facility to facilitate:
 - (i) Delivery of stores;
 - (ii) Disposal of kitchen waste; and
 - (iii) Transport of food to nursing units;
 - (c) Dining area, if planned, adjacent to employee food service area;
 - (4) Provide the dietary facility with:
 - (a) Office space;
 - (b) Receiving area readily accessible to the refrigeration and food storage areas;
 - (c) Bulk, refrigerated and frozen food storage spaces conveniently located to receiving area and to avoid through traffic in food preparation area with:
 - (i) At least one dry storage room located in or adjacent to the kitchen with:
 - (A) Access from an outside delivery entrance;
 - (B) Proper construction, ventilation, and temperature to minimize spoilage;
 - (C) Space for large containers and mobile equipment;
 - (D) Bottom shelves for food storage at least six inches above floor; and
 - (E) Storage units located and designed to allow for easy and regular cleaning of shelves, walls, and floors;
 - (ii) Capacity to stock a quantity of food supplies to accommodate emergencies;
 - (5) Provide kitchen facilities and food preparation areas including:
 - (a) Patient tray preparation area with:
 - (i) Space for mobile equipment such as food tray carts;
 - (ii) Serving equipment;
 - (iii) Closed or covered storage units for food containers, dishes, and trays;
 - (iv) Refrigerator and/or frozen food storage unit; and
 - (v) Beverage service equipment;
 - (b) Provision for bulk ice;
 - (6) Provide employee food service area, if planned, separate from, but convenient to the kitchen;
 - (7) Provide a dishwashing and utensil washing room or area to:

- (a) Avoid traffic through other areas of the kitchen; and
- (b) Permit unloading of tray carts and receiving of soiled dishes without obstructing traffic in corridors; and
- (8) Provide access to cart washing or cleaning area conveniently located adjacent to service corridor or elevator.

NEW SECTION

WAC 246-320-615 Pharmacy. Hospitals will:

- (1) Provide each pharmacy with support facilities meeting requirements in WAC 246-320-535(4) housekeeping supply room;
 - (2) Locate pharmacy in a separate and secure room;
 - (3) Provide pharmacy with:
 - (a) Storage, including locked storage for Schedule II controlled substances in accordance with WAC 246-873-070 and 246-873-080;
 - (b) All entrance doors equipped with closers;
 - (c) Automatic locking mechanisms on all entrance doors to preclude entrance without a key or combination;
 - (d) All perimeter walls of the pharmacy and vault constructed full height from floor to underside of structure above;
 - (e) Security devices or alarm systems for perimeter doors, windows and relites;
 - (f) An emergency signal device to signal at a location where twenty-four-hour assistance is available;
 - (g) Space for files and clerical functions;
 - (h) Break-out and storage area separate from clean areas; and
 - (i) Electrical service including emergency power to critical pharmacy areas and equipment;
 - (4) Provide a general compounding and dispensing unit, room, or area with:
 - (a) A work counter with impermeable surface;
 - (b) A corrosion-resistant sink, suitable for hand washing, mounted in counter or integral with counter;
 - (c) Storage space;
 - (d) A refrigeration and freezing unit; and
 - (e) Space for mobile equipment;
 - (5) Provide manufacturing and unit dose packaging area or room, if planned, with the following:
 - (a) Work counter with impermeable surface;
 - (b) Corrosion-resistant sink suitable for hand washing, mounted in counter or integral with counter; and
 - (c) Storage space;
 - (6) Locate admixture, radiopharmaceuticals, and other sterile compounding room, if planned, in a low traffic, clean area with:
 - (a) A preparation area;
 - (b) A work counter with impermeable surface;
 - (c) A corrosion-resistant handsfree sink, suitable for hand washing, mounted in counter or integral with counter;
 - (d) Space for mobile equipment;
 - (e) Storage space;
 - (f) A laminar flow hood in admixture area; and
 - (g) Shielding and appropriate ventilation in accordance with WAC 246-320-525 (4)(k) and (l) for storage and preparation of radiopharmaceuticals and chemotherapeutic agents;
 - (7) If satellite pharmacies are planned, meet:

- (a) Subsections (1) and (3)(a), (b), (c), (d), (e), and (f) of this section when drugs will be stored;
- (b) Subsection (3)(g), (h), and (i) of this section, if appropriate; and
- (c) Subsections (4)(a) through (e) and (6)(a) through (g) of this section if planned;
- (8) Provide separate outpatient pharmacy, if planned, meeting requirements for satellite pharmacy.

NEW SECTION

WAC 246-320-625 Laboratory and pathology facilities. Hospitals will:

- (1) Provide laboratory and pathology facilities with support facilities meeting requirements in:
 - (a) WAC 246-320-535(1) staff facilities;
 - (b) WAC 246-320-535(4) housekeeping supply room; and
 - (c) WAC 246-320-535(8) soiled utility room;
- (2) Locate laboratory facility to avoid outpatient traffic through inpatient areas;
- (3) Provide laboratory facilities with:
 - (a) Electrical service including emergency power to critical laboratory areas and equipment consistent with scope of service;
 - (b) Noise attenuation where applicable;
 - (c) Piped utility valves and waste line clean-outs accessible for repair and maintenance;
 - (d) Work areas for technical, clerical, and administrative staff, files, and storage;
 - (e) Handwash sink unless other sinks in the laboratory are equipped for washing hands;
 - (f) Impermeable work counter or counters with sufficient height, depth, and length to accommodate equipment, procedures, and documentation;
 - (g) Knee hole spaces at work stations where appropriate;
 - (h) Corrosion resistant sinks in testing areas consistent with scope of service;
 - (i) Space for freestanding equipment;
 - (j) Storage;
 - (k) Clear aisle width suitable to function and to provide accessibility;
 - (l) Special drainage as appropriate for equipment and waste disposal;
 - (m) Easily accessible emergency eye washers;
 - (n) Blood drawing room or area separate from laboratory testing area including:
 - (i) Work counter;
 - (ii) Handwash sink;
 - (iii) Space to accommodate wheelchair and infants; and
 - (iv) Waiting area;
 - (o) Wheelchair accessible toilet with shelf or equivalent to accommodate specimen collection;
 - (p) Specimen preparation area located in or adjacent to laboratory with equipment as required in (a), (d), (f), (h), (i), (j), and (k) of this subsection;
 - (q) Blood bank area including:
 - (i) Equipment as required in (a) through (n) of this subsection; and

(ii) A blood bank refrigerator equipped with high and low temperature alarm which signals in staffed area;

(r) Chemistry area including equipment as required in (a), (b), (d), (h), (i), (j), (k), (l), and (m) of this subsection with the following additional provisions if applicable:

(i) Fume hood when any procedure produces dangerous, toxic, or noxious fumes;

(ii) Special equipment properly vented as per manufacturer's instructions; and/or

(iii) Special gases piped in or space for special gas cylinders with safety fasteners;

(s) Hematology facility located and equipped as required in (a) through (n) of this subsection;

(4) Provide the following laboratory services, if planned:

(a) Media preparation room or area meeting the ventilation requirements in WAC 246-320-525 (Table 525-3);

(b) Reagent preparation area including equipment as required in subsection (3)(f), (g), (h), (i), and (j) of this section with:

(i) Space for vibration-free balance table unless available elsewhere in laboratory; and

(ii) Equipment for preparation of reagent water or outlet for piped reagent water prepared elsewhere;

(c) Microbiology or areas where specimen may be aerosolized including:

(i) Separate enclosed room or an area located away from traffic flow; and

(ii) Equipment as required in subsection (3)(a), (d), (f), (h), (i), (j), and (k) of this section with the following additional provisions:

(A) Space for special gas cylinders with safety fasteners unless all gas is piped in; and

(B) For highly infectious materials, an additional enclosed area with counters, sink, storage, and biological safety cabinet or laminar flow hood;

(d) Cytology and/or histology in a separate area with:

(i) A staining area with forced air exhaust ventilation;

(ii) As necessary, a fume hood to exhaust tissue processing equipment;

(iii) Space for frozen section equipment as needed; and

(iv) Provisions for storing flammable materials used in the area;

(5) Locate a morgue facility, if planned, to accommodate transport of deceased via least used public corridor or corridors and provide refrigeration for body storage;

(6) Locate an autopsy room, if planned, adjacent to the morgue and provide with:

(a) An autopsy table with water supply, suction outlet, and appropriate drain;

(b) Space for dissection table or counter;

(c) A floor drain;

(d) A scrub sink;

(e) An instrument sterilizer unless provided elsewhere;

(f) A conveniently located changing room, toilet, hand-wash sink and shower;

(g) Space for housekeeping equipment; and

(h) Specimen holding room or area;

(7) Locate vivariums, if planned, separate from the laboratory and patient care areas and provide with:

(a) Food and supply storage;

(b) Handwash sink;

(c) Facilities for disposal of wastes and dead animals;

(d) Locked isolation of inoculated animals;

(e) Controlled access;

(f) Adequately secured areas to prevent escape; and

(g) Measures to control noise and odors.

NEW SECTION

WAC 246-320-635 Surgery facilities. Hospitals will:

(1) Provide surgery facilities with support facilities meeting requirements in:

(a) WAC 246-320-535(2) clean storage room or WAC 246-320-535(3) clean utility room with adequate storage facilities consistent with scope of service;

(b) WAC 246-320-535(4) housekeeping supply room;

(c) WAC 246-320-535(5) medication distribution facility, which includes anesthesia if planned;

(d) WAC 246-320-535(8) soiled utility room with:

(i) A sink and plaster trap; and

(ii) With no direct access to operating room;

(2) Locate a separate segregated surgery suite to:

(a) Prevent traffic through surgery suite to any other area of the hospital; and

(b) Facilitate transfer of patients to recovery/post anesthesia care unit and surgical nursing units;

(3) Provide surgery suite with:

(a) A scrub-up area with direct access or close to each operating room including:

(i) At least two scrub sinks per operating room or at least three scrub sinks for every two operating rooms;

(ii) Soap dispenser at each scrub sink with foot control or equivalent;

(iii) Brush dispenser or equivalent;

(iv) Shelf;

(v) Single service towel dispenser or equivalent; and

(vi) Clock with sweep second hand or equivalent within view from scrub sinks;

(b) Sterilizing facilities located for maintenance accessibility including:

(i) Flash sterilizers consistent with scope of service;

(ii) Compliance with WAC 246-320-575 central processing, if instruments are processed in the operating room;

(iii) Sterilizers with recording thermometers and automatic controls sufficient to accommodate supplies and equipment if sterilized in suite;

(c) Patient preoperative area, if planned, including:

(i) Room or alcove out of traffic; and

(ii) Provision for toilet, handwash sink, staff work area, and privacy curtains or equivalent;

(d) A solution warmer;

(e) A blanket warmer; and

(f) Ice machines consistent with scope of service;

(4) Provide at least one major operating room with:

(a) Minimum room dimension of twenty feet;

(b) Minimum room area of four hundred eighty square feet;

(c) A ceiling mounted surgery light and general room lighting;

(d) Film illuminators or equivalent consistent with scope of service;

- (e) A clock with sweep second hand or equivalent;
- (f) Interval timer consistent with scope of service; and
- (g) Storage for surgical supplies;

(5) Provide minor operating room, if planned, meeting the requirements in subsection (4)(c) through (g) of this section, with:

- (a) Minimum dimension of fifteen feet; and
- (b) Minimum room area of two hundred seventy square feet;

(6) Provide anesthesia work room, if planned, with:

(a) Space for cleaning, testing, and storing anesthesia machines, carts, supplies, and lockable storage for medications;

(b) A two-compartment sink with counter space to separate clean and soiled functions; and

(c) A writing surface;

(7) Locate control area to permit coordination of functions among operating rooms in or adjacent to surgery facilities with:

- (a) Telephone;
- (b) Room convenient to the surgery suite for confidential communication;

(c) File storage; and

(d) Work area;

(8) Provide clean storage facilities for equipment and supplies, including:

(a) Blood refrigeration, if blood is stored; and

(b) Mobile X-ray equipment;

(9) Provide staff facilities with:

(a) Locker rooms located within the surgery suite, including:

(i) Storage for personal effects;

(ii) Storage space for scrub clothing;

(iii) Space for collection receptacles for soiled scrub clothing; and

(iv) Separate facilities for males and females including:

(A) A clothing change area or room;

(B) A toilet and handwash sink; and

(C) Shower facilities;

(b) A lounge within the surgery suite; and

(c) Dictation and report area;

(10) Include a recovery/post anesthesia care unit in accordance with WAC 246-320-645;

(11) Provide cardiovascular, orthopedic, neurological and other special procedure areas, if planned, that require room for additional personnel and/or large equipment with:

(a) Same requirements as subsection (5) of this section except with a minimum clear floor area of six hundred square feet; and

(b) Additional equipment storage room(s) for large equipment required to support these procedures.

NEW SECTION

WAC 246-320-645 Recovery/post anesthesia care unit (PACU). Hospitals will:

(1) Provide recovery/post anesthesia care unit areas or rooms with support facilities meeting requirements in:

(a) WAC 246-320-535(2) clean storage room or WAC 246-320-535(3) clean utility room;

(b) WAC 246-320-535(4) housekeeping supply room;

(c) WAC 246-320-535(5) medication distribution facility; and

(d) WAC 246-320-535(7) soiled storage room or WAC 246-320-535(8) soiled utility room;

(2) Locate recovery/post anesthesia care unit area or rooms adjacent to the surgery suite, avoiding through traffic to other patient care areas;

(3) Provide patient care area with:

(a) Multiple-bed area designed to provide:

(i) At least four feet wide space between side of each bed or stretcher and wall, other bed, or fixed equipment; and

(ii) At least four feet wide space between foot end of any bed and any wall or fixed equipment;

(b) Privacy curtains or equivalent;

(c) A handwash sink located convenient to every six patient stations or major fraction;

(d) Storage, shelves, drawers, or equivalent and charting surface at each patient station;

(e) Clock with sweep second hand or equivalent;

(f) Interval timer consistent with scope of service; and

(g) Airborne precaution room, if planned, with:

(i) One hundred twenty square feet;

(ii) A handwash sink with handsfree controls and goose-neck spouts without aerators;

(iii) A clock;

(iv) A charting surface;

(v) A clinic service sink or water closet with bedpan rinsing/flushing attachment adjoining room; and

(vi) Air changes and air pressure gradients in accordance with WAC 246-320-525 (Table 525-3);

(4) Provide storage for stretchers, supplies and equipment;

(5) Provide nursing support area meeting the requirements in WAC 246-320-685 (5)(b);

(6) Provide patient toilet with handwash sink where stage two recovery is planned; and

(7) Provide easily accessible staff toilet with handwash sink.

NEW SECTION

WAC 246-320-655 Obstetrical delivery facilities. Hospitals will:

(1) Provide obstetrical delivery facilities with support facilities meeting requirements in:

(a) WAC 246-320-535(1) staff facilities with dressing room;

(b) WAC 246-320-535(2) clean storage room or WAC 246-320-535(3) clean utility room;

(c) WAC 246-320-535(4) housekeeping supply room;

(d) WAC 246-320-535(5) medication distribution facility; and

(e) WAC 246-320-535(8) soiled utility room;

(2) Locate delivery rooms to prevent traffic through delivery room service areas;

(3) Provide cesarean delivery room or surgery room for obstetrical services with:

- (a) Minimum area of four hundred square feet;
- (b) Minimum room dimension of twenty feet;
- (c) A ceiling mounted surgery light and general room lighting;
- (d) Film illuminators or equivalent consistent with scope of service;
- (e) Clock with sweep second hand or equivalent;
- (f) Interval timer consistent with scope of service;
- (4) Provide scrub area located to provide direct access to the cesarean/delivery room and in accordance with WAC 246-320-635 (3)(a);
- (5) Provide flash sterilizers consistent with scope of service meeting requirements in WAC 246-320-635 (3)(b);
- (6) Provide anesthesia storage or anesthesia workroom meeting requirements in WAC 246-320-635(6);
- (7) Include a recovery/post anesthesia care unit, if planned, in accordance with WAC 246-320-645;
- (8) Provide storage for supplies and equipment.

NEW SECTION

WAC 246-320-665 Birthing/delivery rooms, labor, delivery, recovery (LDR) and labor, delivery, recovery, postpartum (LDRP). Hospitals will:

(1) Provide birthing/delivery rooms, labor, delivery, recovery (LDR) and labor, delivery, recovery, postpartum (LDRP) with:

(a) Support facilities located for convenient use by staff meeting the requirements in:

(i) WAC 246-320-535(1) staff facilities with dressing room;

(ii) WAC 246-320-535(2) clean storage room, or WAC 246-320-535(3) clean utility room;

(iii) WAC 246-320-535(4) housekeeping supply room;

(iv) WAC 246-320-535(5) medication distribution facility;

(v) WAC 246-320-535(6) nourishment facilities with provision for ice; and

(vi) WAC 246-320-535(7) soiled storage room or WAC 246-320-535(8) soiled utility room;

(b) Toilet and bathing facilities adjoining each patient room;

(c) Nursing support area or equivalent meeting requirements in WAC 246-320-685 (5)(b); and

(d) Storage for supplies and equipment;

(2) Locate birthing rooms to prevent unnecessary traffic through the obstetrical service area; and

(3) Provide single-bed birthing room with:

(a) Four feet at each side and six feet at foot of bed;

(b) Minimum room area of two hundred square feet;

(c) A handsfree handwash sink;

(d) Privacy curtains or equivalent;

(e) One full-length wardrobe, closet, or locker for storage of personal effects; and

(f) Uncarpeted floors.

NEW SECTION

WAC 246-320-675 Interventional service facilities. Hospitals will:

(1) Provide interventional service facilities with convenient and easily accessible support facilities consistent with scope of service meeting requirements in:

(a) WAC 246-320-535(2) clean storage room or WAC 246-320-535(3) clean utility room;

(b) WAC 246-320-535(4) housekeeping supply room;

(c) WAC 246-320-535(5) medication distribution facility; and

(d) WAC 246-320-535(7) soiled storage room or WAC 246-320-535(8) soiled utility room;

(2) Locate procedure rooms for easy access by patients, preventing through traffic, and convenient to waiting area or patient holding area;

(3) Meet requirements in WAC 246-320-785 (3) and (5) when imaging procedures are done in procedure rooms which are not located in the radiology facilities;

(4) Provide endoscopy room(s) for routine procedures, if planned, with:

(a) Minimum room dimension of fifteen feet;

(b) Minimum room area of two hundred fifty square feet;

(c) A handwash sink;

(d) Exam light or equivalent and adequate general room lighting;

(e) Clock with sweep second hand or equivalent;

(f) Supply and equipment storage; and

(g) The following consistent with scope of service:

(i) Film illuminators or equivalent;

(ii) Interval timer;

(iii) Adjoining patient toilet with handwash sink; and

(iv) Scope cleaning room with proper ventilation and facilities for cleaning and drying;

(5) Provide procedure room for cystoscopic and other endo-urological procedures, if planned:

(a) Meeting the requirements in subsection (4) of this section, with the following exceptions:

(i) Minimum room dimension of eighteen feet;

(ii) Minimum room area of three hundred square feet;

(iii) Ceiling mounted surgery light in cystoscopy; and

(iv) Scrub sink;

(b) With adequate space for equipment transformer cabinet; and

(c) With waste evacuation drainage plumbing if required by table manufacturer;

(6) Provide cardiac, diagnostic, interventional procedure room, or other special procedure room, if planned, with:

(a) Minimum room dimension of twenty feet exclusive of control booth and fixed equipment;

(b) Minimum room area of four hundred eighty square feet;

(c) A scrub sink located immediately outside of procedure room;

(d) Work surface;

(e) Supply and equipment storage;

(f) Exam light;

(g) Clock with sweep second hand;

(h) Interval timer consistent with scope of service;

(i) Washable ceiling tile; and

(j) Control room where required for equipment operation and safety;

(7) Provide lithotripsy room, if planned, with:

- (a) Minimum room dimension of fifteen feet;
- (b) Minimum room area of two hundred fifty square feet;
- (c) Handwash sink, unless lithotripsy device is in operating room;
- (d) Work surface;
- (e) Supply and equipment storage;
- (f) Clock with sweep second hand; and
- (g) Interval timer consistent with scope of service.

NEW SECTION

WAC 246-320-685 Nursing unit. Hospitals will:

- (1) Provide each nursing unit with support facilities on or adjacent to each unit meeting requirements in:
 - (a) WAC 246-320-535(1) staff facilities;
 - (b) WAC 246-320-535(2) clean storage room or WAC 246-320-535(3) clean utility room;
 - (c) WAC 246-320-535(4) housekeeping supply room;
 - (d) WAC 246-320-535(5) medication distribution;
 - (e) WAC 246-320-535(6) nourishment facilities; and
 - (f) WAC 246-320-535(7) soiled storage room or WAC 246-320-535(8) soiled utility room;
- (2) Locate each nursing unit to avoid through traffic to any service, diagnostic, treatment, or administrative area;
- (3) Provide each nursing unit with separate areas for each of the following clinical services:
 - (a) Beds for postpartum patients grouped together and located to avoid intermixing with beds for other types of patients;
 - (b) When a separate pediatric unit is planned or when rooms with pediatric beds are located together or in close proximity to each other, consistent with scope of service and WAC 246-320-695 (4)(a), (b), and (c);
 - (c) When a separate psychiatric unit is planned, or when ten or more psychiatric beds are planned, a psychiatric unit must be provided in accordance with WAC 246-320-745;
 - (d) Segregated critical care patient beds where five or more beds are planned in accordance with WAC 246-320-725; and
 - (e) A separate long-term care unit where ten or more beds are planned in accordance with WAC 246-320-765;
- (4) Provide the following on each unit:
 - (a) Patient rooms located:
 - (i) To prohibit traffic through rooms;
 - (ii) To minimize entrance of odors, noise, and other nuisances; and
 - (iii) With direct access from corridor of nursing unit;
 - (b) Patient rooms designed with:
 - (i) A maximum capacity of four beds per room;
 - (ii) At least eighty square feet usable floor space per bed in multibed rooms;
 - (iii) At least one hundred square feet usable floor space in single-bed rooms;
 - (iv) Beds arranged in multibed rooms with at least:
 - (A) Two feet from wall, except at head;
 - (B) Three feet apart; and
 - (C) Three feet eight inches clearance at foot of bed;
 - (v) Handwash sink in each room located as near to entry as practical, optional in psychiatric patient rooms;

(vi) Cubicle curtains or equivalent to provide patient privacy in all multibed patient rooms arranged to provide patient access to toilet, handwash sink, wardrobe, and entry without interference to privacy of other patients; and

- (vii) One full-length wardrobe, closet, or locker per bed;
- (c) Patient bathing facilities including showers or tubs in the ratio of one bathing facility per eight beds or major fraction thereof. Beds having a bathing facility adjoining the patient room will be excluded from the ratio;
- (d) Patient toilets with bedpan flushing equipment adjoining each patient room; and
- (e) Toilet rooms serving patient beds in ratio of one per four beds or major fraction with one toilet room serving no more than two patient rooms;

(5) Provide the following on or adjacent to each unit:

- (a) Self-dispensing ice machine;
- (b) Nursing support area with:
 - (i) A writing surface;
 - (ii) Storage for patient charts;
 - (iii) A telephone; and
 - (iv) A clock;
- (c) A room for confidential communication;
- (d) A waiting room or area, convenient to the unit; and
- (e) Storage for supplies and equipment;
- (6) Provide at least one airborne precaution room as appropriate for isolation of airborne communicable diseases in the hospital with:
 - (a) Adjoining toilet, bedpan flushing equipment, and bathing facility;
 - (b) Handwash sink with handsfree faucet controls and gooseneck spout without aerators located in room near entry;
 - (c) Air changes and air pressure gradients in accordance with WAC 246-320-525 (Table 525-3);
 - (d) Uncarpeted floors; and
 - (e) Anteroom or vestibule.

NEW SECTION

WAC 246-320-695 Pediatric nursing unit. Hospitals will:

- (1) Provide each pediatric nursing unit with support facilities located for convenient use by staff and to prevent access by pediatric patients meeting requirements in:
 - (a) WAC 246-320-535(1) staff facilities;
 - (b) WAC 246-320-535(2) clean storage room or WAC 246-320-535(3) clean utility room;
 - (c) WAC 246-320-535(4) housekeeping supply room;
 - (d) WAC 246-320-535(5) medication distribution facility;
 - (e) WAC 246-320-535(6) nourishment facilities; and
 - (f) WAC 246-320-535(7) soiled storage room or WAC 246-320-535(8) soiled utility room;
- (2) Locate the pediatric unit to prevent unnecessary traffic through the service area and in accordance with WAC 246-320-405(2);
- (3) Provide tamper resistant electrical outlets in all patient areas, including corridors;
- (4) Meet the requirements in WAC 246-320-685(4) except as follows:

(a) Patient rooms designed with at least fifty square feet usable floor space per bassinet;

(b) Adjoining patient toilets may be omitted from bassinet rooms; and

(c) At least one airborne infection precaution room must be located in the pediatric area meeting requirements in WAC 246-320-685(6);

(5) Meet the requirements in WAC 246-320-685(5) with the waiting room for parents provided on or adjacent to the unit;

(6) Treatment and examination room with minimum dimension of eight feet and at least one hundred square feet, including:

(a) Handwash sink;

(b) Work surface; and

(c) Storage;

(7) Provide multipurpose room or area, commonly known as play room.

NEW SECTION

WAC 246-320-705 Newborn nursery facilities. Hospitals will:

(1) Provide newborn nursery facilities with support facilities convenient to nursery room meeting requirements in:

(a) WAC 246-320-535(1) staff facilities with dressing room;

(b) WAC 246-320-535(3) clean utility room with additional provision of refrigerator for infant feedings;

(c) WAC 246-320-535(4) housekeeping supply room;

(d) WAC 246-320-535(5) medication distribution facility; and (e) WAC 246-320-535(8) soiled utility room;

(2) Locate the nursery facilities to prevent unnecessary traffic through the service area;

(3) Provide nursery rooms with:

(a) Enough bassinets for newborn infants consistent with scope of service;

(b) An area of twenty-four square feet per bassinet, exclusive of aisle space;

(c) At least three feet between bassinets;

(d) Handsfree handwash sink(s) with:

(i) One located at every entrance to nursery;

(ii) Additional sinks located within the nursery area in a ratio of one handwash sink for every twelve bassinets or major fraction; and

(iii) A soap dispenser with foot control or equivalent at each sink;

(e) A clock with sweep second hand or equivalent visible from all nursery rooms;

(f) A writing surface; and

(g) A telephone;

(4) Provide storage area for linen, supplies, infant formula, and equipment; and

(5) Provide security for newborns consistent with scope of service.

NEW SECTION

WAC 246-320-715 Intermediate care nursery and neonatal intensive care nursery. Hospitals will:

(1) Provide each intermediate care nursery and neonatal intensive care nursery with support facilities convenient to nursery room meeting requirements in:

(a) WAC 246-320-535(1) staff facilities with dressing room;

(b) WAC 246-320-535(3) clean utility room with additional provision of refrigerator for infant feedings;

(c) WAC 246-320-535(4) housekeeping supply room;

(d) WAC 246-320-535(5) medication distribution facility; and

(e) WAC 246-320-535(8) soiled utility room;

(2) Locate the nursery facilities to prevent unnecessary traffic through the service area;

(3) Provide nursery rooms with:

(a) Film illuminators or equivalent consistent with scope of service;

(b) A clock with sweep second hand or equivalent visible from all nursery rooms;

(c) A writing surface; and

(d) A telephone;

(4) Provide infant stations with:

(a) Usable floor area exclusive of aisles with:

(i) Fifty square feet in intermediate care nursery; and

(ii) Eighty square feet in neonatal intensive care nursery;

(b) Space to accommodate monitors and equipment;

(c) Work counter with provisions for a writing area; and

(d) Closed storage for supplies and equipment;

(5) Provide sinks as follows:

(a) At least one scrub sink at each entrance, including a clock with sweep second hand or equivalent within view from scrub sinks; and

(b) Handsfree handwash sinks for every eight infant stations or a major fraction thereof;

(6) Provide an airborne precaution room, if planned, meeting the requirements in subsection (4) of this section;

(7) Provide an area for breast pumping, with:

(a) Access to a:

(i) Handwash sink; and

(ii) Refrigerator;

(b) Provisions for privacy; and

(c) Storage for equipment and supplies consistent with scope of service;

(8) Provide:

(a) Conference or counseling room which allows for parent privacy convenient to intermediate care and neonatal intensive care nursery rooms;

(b) Nursing support area or equivalent meeting the requirements in WAC 246-320-685 (5)(b);

(c) Storage room for linens, supplies, infant formula, and equipment;

(d) Parent's waiting room; and

(e) Security consistent with scope of service.

NEW SECTION

WAC 246-320-725 Critical care facilities. Hospitals will:

(1) Provide critical care facilities with support facilities meeting requirements in:

(a) WAC 246-320-535(1) staff facilities;

- (b) WAC 246-320-535(2) clean storage room or WAC 246-320-535(3) clean utility room;
- (c) WAC 246-320-535(4) housekeeping supply room;
- (d) WAC 246-320-535(5) medication distribution facility;
- (e) WAC 246-320-535(6) nourishment facilities with provision for bulk ice; and
- (f) WAC 246-320-535(7) soiled storage room or WAC 246-320-535(8) soiled utility room;
- (2) Provide a critical care facility with:
 - (a) Location to avoid through traffic and penetration of objectionable noise or odors from other areas of the hospital;
 - (b) Location of patient rooms and placement of beds in rooms to provide for direct visibility of patients from nursing support station unless there is provision for indirect viewing of patients by television;
 - (c) A water closet, clinical sink, or equivalent with bedpan flushing device for disposing of patient wastes, in a separate room directly accessible to each critical care patient room;
 - (d) Additional storage for equipment and supplies; and
 - (e) Airborne precaution room in accordance with WAC 246-320-685(6);
- (3) Provide patient rooms with:
 - (a) Maximum capacity of two beds per room provided each bed has visual access to natural light;
 - (b) Usable floor space per bed of one hundred fifty square feet, exclusive of areas taken up by passage door swings, closets, wardrobes, portable lockers, and toilet rooms;
 - (c) Spacing of at least:
 - (i) Four feet or more between side of bed and wall;
 - (ii) Six feet or more between foot of bed and wall; and
 - (iii) Eight feet or more between beds in multibed rooms;
 - (d) Equipment and furnishings as follows:
 - (i) Curtains or equivalent means of providing visual privacy;
 - (ii) Clocks with sweep second hands or equivalent;
 - (iii) One handwash sink;
 - (iv) A physiological monitor with an audio alarm system for each bed;
 - (v) Charting area; and
 - (vi) An interval timer consistent with scope of service;
 - (e) Uncarpeted floors;
- (4) Provide nursing support area or equivalent with:
 - (a) Space for patient monitoring equipment including:
 - (i) Slave oscilloscope with audio alarm for continuous display of each patient's electrocardiogram;
 - (ii) Rate meter; and
 - (iii) Recorder;
 - (b) Wall-mounted clock with sweep second hand or equivalent; and
 - (c) A writing surface.

NEW SECTION

WAC 246-320-735 Alcoholism and chemical dependency nursing unit. Hospitals will:

- (1) Provide each alcoholism and chemical dependency nursing unit with support facilities equipped with door clos-

ers and locks on all housekeeping, medication, storage, and utility rooms, and meeting requirements in:

- (a) WAC 246-320-535(2) clean storage room or WAC 246-320-535(3) clean utility room;
- (b) WAC 246-320-535(4) housekeeping supply room;
- (c) WAC 246-320-535(5) medication distribution facility;
- (d) WAC 246-320-535(6) nourishment facilities; and
- (e) WAC 246-320-535(7) soiled storage room or WAC 246-320-535(8) soiled utility room;
- (2) Locate each nursing unit to avoid through traffic to any service, diagnostic, treatment, or administrative area and to control access;
- (3) Provide the unit with:
 - (a) Patient rooms, toilet rooms, bathing facilities, and nursing support station or equivalent, as required in WAC 246-320-685;
 - (b) Examination and treatment room available including:
 - (i) Minimum room area of one hundred square feet;
 - (ii) Minimum dimension of eight feet;
 - (iii) Handwash sink;
 - (iv) Work surface; and
 - (v) Storage cabinet;
 - (c) Social facilities with at least four hundred square feet for unit of ten beds or less. Add twenty square feet per bed for each additional bed;
 - (d) Offices for staff;
 - (e) Interview and counseling rooms for patient confidentiality and privacy;
 - (f) Facilities for patients to launder personal belongings;
 - (g) Detoxification area, if planned, with patient rooms equipped with oxygen and suction outlets at each bed; and
 - (h) A staff toilet with handwash sink available on the unit.

NEW SECTION

WAC 246-320-745 Psychiatric facilities. Hospitals will design psychiatric facilities to prevent opportunity for suicide and:

- (1) Provide psychiatric facilities with support facilities equipped with door closers and locks on all housekeeping, medications, storage, and utility rooms and meeting requirements in:
 - (a) WAC 246-320-535(2) clean storage room or WAC 246-320-535(3) clean utility room;
 - (b) WAC 246-320-535(4) housekeeping supply room;
 - (c) WAC 246-320-535(5) medication distribution facility;
 - (d) WAC 246-320-535(6) nourishment facilities with provision for self-dispensing ice; and
 - (e) WAC 246-320-535(7) soiled storage room or WAC 246-320-535(8) soiled utility room;
- (2) Locate to avoid through traffic to any service, diagnostic, treatment and/or administrative area, and penetration of objectionable noise, or odors from other areas of the hospital;
- (3) Provide psychiatric treatment facilities including:

PERMANENT

(a) Treatment and examination room, unless available in an adjacent area or unit, with minimum dimension of eight feet and at least one hundred square feet, including:

- (i) A handwash sink;
- (ii) A clock with sweep second hand or equivalent;
- (iii) A writing surface; and
- (iv) A storage cabinet;

(b) Patient toilet rooms, adjoining each patient room, with water closets in ratio of at least one water closet and handwash sink to every four beds;

(c) A staff toilet with handwash sink available on the unit;

(d) Patient bathing facilities with showers or tubs in the ratio of at least one bathing facility per eight beds or major fraction thereof. Beds having a bathing facility adjoining the patient room will be excluded from the ratio;

(e) Administrative facilities with:

(i) Storage for personal effects of staff apart from storage for patient care supplies and equipment;

(ii) Office or private area for staff and supervisory activities; and

(iii) Lockable storage for patient personal belongings;

(f) Waiting area adjacent to the unit;

(g) A wheelchair-accessible:

(i) Water fountain; and

(ii) Public telephone;

(h) Facilities for patient laundry;

(4) Provide patient rooms:

(a) Meeting requirements in WAC 246-320-685 (4)(a) and (b) with exception of maximum capacity of two beds per patient room and optional privacy curtains; and

(b) With a wardrobe, closet, or locker per bed;

(5) Provide a nursing support station or equivalent with:

(a) A writing surface;

(b) Storage for patient charts and supplies;

(c) A telephone; and

(d) A clock;

(6) Provide a seclusion room with:

(a) Design to minimize potential for stimulation, escape, hiding, injury, or suicide;

(b) Maximum capacity of one patient;

(c) Doors to open outward into a vestibule or anteroom;

(d) At least space of eighty square feet;

(e) Minimum dimension of eight feet;

(f) Staff-controlled, lockable, adjoining toilet room; and

(g) A provision for staff to see the occupant at all times;

(7) Provide suitably equipped areas for:

(a) Dining;

(b) Occupational and recreational therapies with:

(i) Handwash sink;

(ii) Work counter; and

(iii) Storage and physical/occupational therapy displays or other training features consistent with scope of service;

(c) Day room;

(d) Physical activity and patient recreation on the unit or elsewhere on the hospital premises; and

(e) Group therapy;

(8) Provide space and privacy for interviewing, group, family, and individual counseling;

(9) Provide:

(a) All windows and relites:

(i) Meeting requirements in WAC 246-320-525 (2)(i); and

(ii) Installation of security or maximum security windows or equivalent;

(b) Tamper-resistant accessories and equipment in all rooms used by patients; and

(c) Tamper-resistant electrical receptacles;

(10) If electroconvulsive therapy (ECT) rooms are planned, meet the requirements for interventional services - cardiology/angiography in WAC 246-320-525 (Tables 1 through 5), and provide:

(a) At least an area of one hundred fifty square feet;

(b) Minimum dimension of twelve feet; and

(c) The following equipment:

(i) Emergency call;

(ii) Handwash sink;

(iii) Storage for supplies and equipment;

(iv) Space and electrical receptacles for ECT machine;

(v) Oxygen and suction outlet;

(vi) Stretcher or treatment table or equivalent;

(vii) Space for emergency medical supplies and equipment;

(viii) Space for anesthesia machine or cart and equipment;

(ix) Space for electrocardiograph (EKG) monitor; and

(x) Clock with sweep second hand or equivalent;

(11) If ECT is performed, provide a recovery facility, which may be the patient room or PACU with:

(a) Location near ECT treatment room;

(b) Oxygen and suction for each bed, stretcher, or cart; and

(c) Easy access to a clean and soiled utility room.

NEW SECTION

WAC 246-320-755 Rehabilitation facilities. Hospitals will:

(1) Provide rehabilitation facilities with support facilities located for convenient use by staff meeting requirements in:

(a) WAC 246-320-535(1) staff facilities; and

(b) WAC 246-320-535(4) housekeeping supply room;

(2) Locate rehabilitation facilities for easy access by patients, avoiding outpatient traffic through inpatient areas and meeting accessibility requirements in WAC 51-40-1100;

(3) Meet the requirements in WAC 246-320-765 for an inpatient rehabilitation nursing unit;

(4) Provide outpatient rehabilitation facilities, if planned, with:

(a) Patient toilet;

(b) Changing area with lockers or other suitable clothing storage;

(c) Reception and waiting area in or convenient to the facility;

(d) Office and work space with communication device for staff;

(e) Public toilets for each sex convenient to the facility; and

(f) Ready access to emergency medical equipment;

(5) Provide physical therapy facilities, if planned, meeting requirements in subsection (4) of this section with:

(a) General treatment area including:

(i) Private areas large enough for therapist to access both sides of work station;

(ii) Arrangement to permit easy access for wheelchair or stretcher patients;

(iii) Therapy area of at least thirty-six square feet usable floor area per patient in therapy at any one time; and

(iv) Provision for patient privacy;

(b) Handwash sink in or convenient to treatment areas;

(c) Storage for hot packs and equipment;

(d) Refrigeration for cold packs;

(e) Area for physical activities and equipment; and

(f) Clean linen storage;

(6) Provide occupational therapy facilities, if planned, meeting requirements in subsection (4)(a) and (c) through (f) of this section with:

(a) Therapy areas of at least thirty-six square feet useable floor area per patient in therapy at any one time, divided and equipped for diversified work;

(b) Handwash sink with plaster trap consistent with scope of service;

(c) Storage for supplies and equipment; and

(d) Provision for patient privacy;

(7) Provide pools, spas, and tubs which remain filled between patients, if planned, meeting requirements in chapter 246-260 WAC Water recreation facilities.

NEW SECTION

WAC 246-320-765 Long-term care and hospice unit.

Hospitals will:

(1) Provide each long-term care and hospice unit with support facilities:

(a) Meeting requirements in:

(i) WAC 246-320-535(2) clean storage room or WAC 246-320-535(3) clean utility room;

(ii) WAC 246-320-535(4) housekeeping supply room;

(iii) WAC 246-320-535(5) medication distribution facility;

(iv) WAC 246-320-535(6) nourishment facilities;

(v) WAC 246-320-535(7) soiled storage room or WAC 246-320-535(8) soiled utility room; and

(b) With locks and closers on all doors where housekeeping chemicals are stored;

(c) With additional general storage space for patient belongings in addition to closets and equipment storage provided in the long-term care service area; and

(d) With a self-dispensing ice machine;

(2) Locate long-term care unit to minimize through traffic and penetration of objectionable noise, or odors from other areas of the hospital;

(3) Patient personal laundry area with handwash sink;

(4) Provide long-term care unit with:

(a) Wheelchair accessible patient toilets including:

(i) Water closets in a ratio of at least one per four beds;

(ii) Bedpan flushing equipment;

(iii) Accessibility from each patient room;

(iv) A handwash sink in each adjoining toilet room for each multibed room; and

(v) Grab bars properly located and securely mounted on both sides of the water closet;

(b) Handwash sink in each patient room located as near to entry as practical;

(c) Handrails along both sides of all patient use corridors;

(d) Patient bathing facilities including:

(i) Showers or tubs in a ratio of at least one per fifteen beds or major fraction thereof;

(ii) At least one bathing by immersion fixture or equivalent accessible for wheelchairs and stretchers;

(iii) One roll-in shower or equivalent designed for ease of shower chair entry; and

(iv) Grab bars at patient bathing facilities in accordance with WAC 51-40-1100 with addition of one vertical bar at the faucet end;

(e) Waiting room or area near public toilet rooms;

(5) Provide patient rooms with:

(a) Maximum capacity of two beds per patient room;

(b) Meeting requirements in WAC 246-320-685 (4)(a) and (b);

(c) At least eighty-five square feet usable floor space per bed in multibed rooms;

(d) Space for wheelchair storage;

(e) The provision for patient privacy in all rooms;

(f) One wardrobe or closet for hanging of full-length garments; and

(g) A securable drawer for personal effects per patient;

(6) Provide a nursing support area meeting requirements in WAC 246-320-685 (5)(b);

(7) Provide office for confidential staff communications;

(8) Provide suitably equipped patient areas in the long-term care facility with:

(a) Day/dining room, recreation, activity room or rooms with windows totaling at least four hundred square feet and twenty additional square feet for each additional bed over twenty;

(b) Space and privacy for group, family, and individual counseling; and

(c) At least one wheel chair accessible toilet opening directly from main corridor adjacent to (a) and (b) of this subsection;

(9) Provide occupational therapy and physical therapy facilities as described in WAC 246-320-755 either in the long-term care unit or elsewhere in the hospital;

(10) Include the following features if planning to provide a protective facility for cognitively impaired patients:

(a) Floors, walls, and ceiling surfaces displaying contrasting colors for identification;

(b) Instruction labels on door release devices requiring direction for use;

(c) Secured outdoor space and walkways, when outdoor space is provided, including:

(i) Walls or fences at least six feet high and designed to prevent climbing and penetration;

(ii) Ambulation area with:

(A) Walking surfaces firm, stable, and free from abrupt changes in elevation; and

(B) Slip-resistant walking surfaces on areas subject to wet conditions;

(iii) Exits from the secured outdoor spaces and walkways releasing automatically upon activation of fire alarm signal or upon loss of power; and

(iv) Nontoxic plants for landscaping;

(d) Plants used for interior decoration must be nontoxic;

(11) If a hospice unit is planned, meet subsections (1) through (7) of this section and include:

(a) Medication storage room meeting WAC 246-320-535 (5)(a);

(b) Children's play room or area with tamper resistant electrical receptacle, if provided;

(c) Kitchen located to prevent objectionable heat, noise, and odors to patient care areas with:

(i) Refrigerator;

(ii) Two-compartment sink;

(iii) Domestic dishwasher, if provided with 155°F water supply;

(iv) Range with exhaust hood;

(v) Work surfaces; and

(vi) Storage;

(d) Day/dining room consistent with scope of service; and

(e) Space and privacy for interviewing group, family, and individual counseling consistent with scope of service.

NEW SECTION

WAC 246-320-775 Dialysis facilities. Hospitals will:

(1) Provide dialysis facilities with support facilities meeting requirements in:

(a) WAC 246-320-535(2) clean storage room or WAC 246-320-535(3) clean utility room;

(b) WAC 246-320-535(4) housekeeping supply room;

(c) WAC 246-320-535(5) medication distribution facility; and

(d) WAC 246-320-535(7) soiled storage room or WAC 246-320-535(8) soiled utility room;

(2) Locate dialysis facility to minimize outpatient traffic through inpatient areas and to facilitate transport of patients to and from other hospital services areas;

(3) Provide a dialysis facility with:

(a) Uncarpeted floors in patient care and wet areas;

(b) Coat hooks or equivalent for hanging full length garments;

(c) A patient waiting area;

(d) Patient preparation areas adjacent to dialysis stations with provisions for:

(i) A handwash sink; and

(ii) Storage;

(e) A work station for staff with writing surfaces and storage for supplies;

(f) Privacy areas for interviewing and consultation;

(g) A conveniently located toilet;

(h) Patient education room with a handwash sink if home training is planned;

(i) Chemical storage room; and

(j) Reuse room with:

(i) Capture hoods, exhausting directly to outdoors, capable of maintaining formaldehyde levels less than 0.5 parts per million in the rooms;

(ii) Eyewash; and

(iii) Handwash sink;

(4) Provide dialysis stations including:

(a) Minimum square feet per dialysis station of:

(i) Fifty square feet excluding aisles when the service uses recliner chairs; and

(ii) Eighty square feet excluding aisles when the service uses beds;

(b) A handwash sink convenient to each dialysis station;

(c) Medical emergency signal for station isolated from immediate staff assistance; and

(d) Plumbing for each dialysis station providing:

(i) A water supply system or mechanism capable of meeting the flow and pressure requirements of the manufacturer for each machine;

(ii) A waste line serving dialysis equipment with an unalterable air gap or equivalent to prevent backflow;

(iii) Connections to the dialysis equipment or equivalent to prevent backflow; and

(iv) Piping and fittings used for all dialysis functions conforming to current National Sanitation Foundation Standard No. 14 entitled "Plastics Piping Components."

NEW SECTION

WAC 246-320-785 Imaging facilities. Hospitals will:

(1) Provide imaging facilities with:

(a) Support facilities meeting requirements in:

(i) WAC 246-320-535(1) staff facilities, if planned;

(ii) WAC 246-320-535(2) clean storage room;

(iii) WAC 246-320-535(4) housekeeping supply room; and

(iv) WAC 246-320-535(8) soiled utility room;

(b) A processing or dark room if planned, including:

(i) A safe light;

(ii) Developing tank with a thermostatic mixing valve, or automatic film processor with appropriate backflow protection;

(iii) Film storage, shielded from stray radiation;

(iv) Work counter;

(v) Sink; and

(vi) Lighting for clean-up and maintenance purposes;

(c) A dressing area with rooms or booths for privacy including:

(i) Provision for clean and soiled linen storage in or near dressing rooms or booths;

(ii) At least one booth or room designed to accommodate a wheelchair in or adjacent to the dressing area;

(iii) Provisions for hanging clothing and securing valuables; and

(iv) Seat or bench in each room or booth;

(d) An image viewing area with:

(i) Film illuminator or equivalent consistent with scope of service; and

(ii) Location to prevent public view of films;

(e) A waiting area with space for wheelchair patients, stretcher patients, and ambulatory patients;

PERMANENT

- (f) A toilet connected to or convenient to radiographic room or rooms;
- (g) Supply and equipment storage including protected storage for unexposed film; and
- (h) Administrative facilities with:
 - (i) Office area, with provision for consultation; and
 - (ii) An active film file area;
- (2) Locate imaging facilities to minimize outpatient traffic through inpatient areas and facilitate transport of patients to and from other hospital services areas;
- (3) Provide each radiographic room with:
 - (a) Access for wheeled stretcher or bed movement;
 - (b) Control area with view window to allow full view of patient at all times;
 - (c) Grounding of table, tube stand and controls, and any associated electrical apparatus in accordance with WAC 246-320-99902(3);
 - (d) Easily accessible handwash sink;
 - (e) Provision for patient privacy; and
 - (f) Proper shielding of room meeting requirements in chapter 246-221 WAC Radiation protection standards;
- (4) Magnetic resonance imaging (MRI) room, if planned, with:
 - (a) A minimum floor space consistent with scope of service and equipment plan; and
 - (b) Patient holding area consistent with scope of service to accommodate stretcher(s);
- (5) Provide additional radiographic rooms meeting the requirements in subsection (3) of this section, WAC 246-320-675 Interventional service facilities, and WAC 246-320-795 Nuclear medicine facilities, as appropriate.

NEW SECTION

WAC 246-320-795 Nuclear medicine facilities. Hospitals will:

- (1) Provide nuclear medicine facilities with:
 - (a) Housekeeping facilities meeting requirements in WAC 246-320-535(4);
 - (b) Impermeable, readily decontaminated work surfaces and floors subject to spills of radioactive solutions; and
 - (c) A private patient clothes changing room or area including a receptacle for potentially contaminated hospital clothing;
- (2) Locate the nuclear medicine facility to avoid outpatient traffic through inpatient areas with minimum exposure hazard to patients and personnel;
- (3) Provide radiochemistry lab with radiation shielding and other protective devices to facilitate safe storage and handling of nuclides and waste materials including:
 - (a) Separate work surfaces for patient dose and clinical specimen preparation;
 - (b) Fume hood, if appropriate, in accordance with WAC 246-320-525 (3)(k);
 - (c) Lockable nuclide storage;
 - (d) Equipment and supply storage;
 - (e) Corrosion-resistant sink suitable for hand washing; and
 - (f) Lockable storage for all radioactive materials, equipment, and waste;

(4) Locate patient imaging room away from X-ray machines, and radioactive materials or shield the room and provide with:

- (a) Administrative work surface at least ten feet away from imaging device;
- (b) Space for examination bed, table, or equivalent;
- (c) Work surface equipment; and
- (d) Storage.

NEW SECTION

WAC 246-320-805 Emergency facilities. Hospitals will:

- (1) Provide emergency facilities with support facilities meeting requirements in:
 - (a) WAC 246-320-535(2) clean storage room or WAC 246-320-535(3) clean utility room;
 - (b) WAC 246-320-535(4) housekeeping supply room;
 - (c) WAC 246-320-535(5) medication distribution facility; and
 - (d) WAC 246-320-535(8) soiled utility room;
- (2) Locate patient entrance to emergency facilities to provide:
 - (a) Ready access at grade level to pedestrian, ambulance, and other vehicular traffic;
 - (b) Protection of emergency patient and the interior of the emergency facility from weather when a patient is brought from an ambulance or other vehicle into the emergency facility with:
 - (i) Port-size to accommodate at least one vehicle twenty-two feet long, eleven feet high, and eight feet wide designed to:
 - (A) Permit attendants to stand on same level as entrance when removing a stretcher from vehicle; and
 - (B) Accommodate different levels of approach with curbs cuts for pedestrian traffic;
 - (ii) Automatic doors;
- (3) Locate an emergency facility to:
 - (a) Avoid traffic through emergency treatment facilities to any other area of hospital; and
 - (b) Facilitate transfer of patients to other hospital service areas;
- (4) Provide emergency facilities with:
 - (a) Emergency receiving/triage area adjacent to emergency entrance, and convenient to treatment rooms;
 - (b) Decontamination area with shower and floor drain to sanitary sewage system adjacent to entrance;
 - (c) Registration area including:
 - (i) Office space or work space for registration, located to control access to emergency facility patient care areas; and
 - (ii) A communication device;
 - (d) Waiting area and public telephone located outside the main traffic flow;
 - (e) Police, press, and ambulance attendant room, if planned, located outside the main traffic flow;
 - (f) Work area for staff;
 - (g) Privacy curtains or equivalent in examination, treatment, or observation rooms;

(h) At least one patient toilet convenient to examination and treatment rooms and located so patients receiving treatment have access without entering a public corridor;

(i) Sink with plaster trap;

(j) At least one public toilet for each sex accessible to waiting area; and

(k) Storage for:

(i) Stretcher(s) and wheelchair(s) adjacent to emergency facility entrance;

(ii) Mobile cart(s) with emergency medical supplies and equipment, in a clean area, readily accessible from all rooms used for patient care or treatment;

(iii) Portable X-ray equipment, if stored in emergency facility; and

(iv) Other major portable or mobile equipment;

(5) Provide at least one major or minor treatment or exam room with negative air pressure for the management of airborne diseases. See WAC 246-320-525 (Table 525-3) for requirements for Airborne Precaution Room. This can be the same room required in subsection (7) or (8) of this section;

(6) Provide at least one major treatment or trauma room with:

(a) Dimensions and arrangement to provide:

(i) Clear space at least four feet wide at both sides and both ends of each treatment table or stretcher; and

(ii) Clear eight feet wide space between treatment tables or stretchers;

(b) Storage for clean and sterile supplies and small equipment;

(c) Work surface in each patient treatment room;

(d) A scrub sink located separate from clean and sterile supply storage, equipment, drugs, and patient treatment area;

(e) Ceiling mounted treatment light for each treatment space;

(f) Film illuminator or equivalent;

(g) Outlet for mobile X-ray machine;

(h) Clock with sweep second hand or equivalent within view of each treatment space;

(i) Storage space for major medical equipment; and

(j) Space for linen hampers and waste containers;

(7) Provide minor treatment and examination room, if planned, with:

(a) Dimensions and arrangement to provide:

(i) Clear space at least three feet at each side and end of each treatment table or stretcher; and

(ii) Clear six feet wide space between treatment tables or stretchers;

(b) Handwash sink separate from patient treatment area;

(c) Work surface separate from patient treatment area;

(d) Storage for supplies and equipment;

(e) Examination light;

(f) Readily accessible film illuminator or equivalent; and

(g) Space for linen hampers and waste containers convenient to all treatment rooms;

(8) Provide observation room, if planned, located convenient to staff work area with:

(a) At least one hundred square feet in one-bed rooms;

(b) Each multiple-bed room designed to provide:

(i) At least four feet wide space between side of each bed or stretcher and wall, other bed, or fixed equipment;

(ii) At least four feet wide space between foot end of any bed and any wall or fixed equipment; and

(iii) Six feet foot to foot;

(c) Handwash sink separate from patient treatment area; and

(9) Provide room for severely disturbed patients, if planned, for patient safety meeting the requirements in WAC 246-320-745(6).

NEW SECTION

WAC 246-320-815 Outpatient care facilities. Hospitals will:

(1) Design outpatient care facilities meeting the general design requirements in WAC 246-320-525(4) plumbing, WAC 246-320-525(6) interior finishes, and WAC 246-320-525(7) bathroom and toilet rooms;

(2) Provide outpatient care facilities with a housekeeping supply room meeting the requirements in WAC 246-320-535(4);

(3) Locate outpatient care facilities to minimize outpatient traffic through inpatient areas;

(4) Provide for the following:

(a) Easy access for outpatients;

(b) Conveniently located waiting room;

(c) Patient toilet with handwash sink;

(d) Changing area with locker or other suitable clothing storage;

(e) Administrative facilities including:

(i) Registration area or room;

(ii) Work surface or desk;

(iii) Telephone;

(iv) Clock;

(v) Storage space; and

(vi) Room for confidential communication, convenient to the unit;

(5) Provide outpatient exam or treatment facilities, if planned, with:

(a) Direct accessibility from the corridor;

(b) Support facilities meeting the requirements in:

(i) WAC 246-320-535(2) clean storage room or WAC 246-320-535(3) clean utility room;

(ii) WAC 246-320-535(5) medication distribution facility; and

(iii) WAC 246-320-535(7) soiled storage room or WAC 246-320-535(8) soiled utility room; and

(c) Single bed rooms of at least one hundred square feet or multibed rooms with at least eighty square feet per patient, including:

(i) Privacy curtains or equivalent for each patient in multibed rooms;

(ii) Closet, locker, or equivalent for each patient;

(iii) Handwash sink in the ratio of one for every six patients or major fraction thereof in multibed rooms;

(iv) Adjoining toilet with handwash sink; and

(v) A clock;

(d) Exam or treatment rooms including:

(i) Minimum eight feet dimension with eighty square feet of floor space;

(ii) Handwash sink;

- (iii) Examination table or equivalent;
- (iv) Examination light or equivalent;
- (v) Storage for supplies and equipment;
- (vi) Film illuminator or equivalent conveniently available; and

(vii) Coat hook or equivalent;

(e) Nursing support area meeting the requirements in WAC 246-320-685 (5)(b);

(6) Meet the general design requirements in WAC 246-320-525 for the following areas if planned:

(a) Surgical suites in accordance with WAC 246-320-635;

(b) Post anesthesia care unit (PACU) in accordance with WAC 246-320-645;

(c) Interventional services in accordance with WAC 246-320-675;

(d) Airborne precaution room in accordance with WAC 246-320-685(6);

(e) Central sterilizing in accordance with WAC 246-320-575; and

(f) Any area where patients are rendered nonambulatory;

(7) Provide a room or rooms for preoperative and pre-discharge functions, if planned, with:

(a) Access to support facilities meeting the requirements in:

(i) WAC 246-320-535(2) clean storage room or WAC 246-320-535(3) clean utility room;

(ii) WAC 246-320-535(5) medication distribution and storage; and

(iii) WAC 246-320-535(7) soiled storage room or WAC 246-320-535(8) soiled utility room;

(b) Convenient access to main hospital operating room or provide separate operating room meeting requirements in WAC 246-320-635; and

(c) Convenient access to main hospital interventional service facilities or provide separate interventional services facilities meeting the requirements in WAC 246-320-675.

NEW SECTION

WAC 246-320-990 Fees. Hospitals licensed under chapter 70.41 RCW shall:

(1) Submit an annual license fee of sixty-one dollars and fifty cents for each bed space within the licensed bed capacity of the hospital to the department;

(2) Include all bed spaces in rooms complying with physical plant and movable equipment requirements of this chapter for twenty-four-hour assigned patient rooms;

(3) Include neonatal intensive care bassinet spaces;

(4) Include bed spaces assigned for less than twenty-four-hour patient use as part of the licensed bed capacity when:

(a) Physical plant requirements of this chapter are met without movable equipment; and

(b) The hospital currently possesses the required movable equipment and certifies this fact to the department;

(5) Exclude all normal infant bassinets;

(6) Limit licensed bed spaces as required under chapter 70.38 RCW;

(7) Submit an application for bed additions to the department for review and approval under chapter 70.38 RCW subsequent to department establishment of the hospital licensed bed capacity; and

(8) Set up twenty-four-hour assigned patient beds only within the licensed bed capacity approved by the department.

NEW SECTION

WAC 246-320-99902 Appendix B—Dates of documents adopted by reference in chapter 246-320 WAC. (1) Accepted Procedure and Practice in Cross-contamination Control, Pacific Northwest Edition, 9th Edition, American Waterworks Association.

(2) Association for Advancement of Medical Instrumentation, (AAMI), 1997.

(3) National Fire Protection Association (NFPA) 70-1996. Required.

(4) National Fire Protection Association (NFPA) 82, Chapter 2, 1994. Required.

(5) National Fire Protection Association (NFPA) 90A and 90B, 1996. Required.

(6) National Fire Protection Association (NFPA) 99, Chapter 4, 1996. Required.

(7) National Fire Protection Association (NFPA) 99, Chapter 7, 1996. Required.

(8) National Fire Protection Association (NFPA) 101, 1997. Required.

(9) Uniform Building Code, 1997, hereafter amended by the state of Washington (chapter 51-40 WAC). Required.

(10) Uniform Fire Code, Article 74, 1997. Required.

(11) Uniform Fire Code, Article 79, 1997. Required.

(12) Uniform Fire Code, Article 80, 1997. Required.

(13) Uniform Mechanical Code, 1997, hereafter amended by the state of Washington (chapter 51-42 WAC). Required.

(14) Uniform Plumbing Code, 1997, hereafter amended by the state of Washington (chapter 51-46 WAC). Required.

(15) Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Health Care Facilities, 1994. Morbidity and Mortality Weekly Report (MMWR), Volume 43, October 28, 1994.

WSR 99-04-056

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed January 29, 1999, 10:38 a.m.]

Date of Adoption: January 29, 1999.

Purpose: Updates the need standard which the department uses to determine eligibility for various public assistance programs.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0015.

Statutory Authority for Adoption: RCW 74.04.200.

Adopted under notice filed as WSR 99-01-029 on December 8, 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:

Assistance Unit Size	Need Standard	185% of Need
1	\$ ((795)) <u>797</u>	\$ ((1,471)) <u>1,474</u>
2	((1,005)) <u>1,008</u>	((1,860)) <u>1,864</u>
3	((1,244)) <u>1,247</u>	((2,302)) <u>2,307</u>
4	((1,463)) <u>1,467</u>	((2,707)) <u>2,714</u>
5	((1,686)) <u>1,690</u>	((3,119)) <u>3,127</u>

(2) ~~((The cash assistance need standards (and one hundred eighty five percent of the need standards)))~~ For assistance units with shelter provided at no cost ~~((are))~~:

Assistance Unit Size	Need Standard	185% of Need
1	\$ ((478)) <u>480</u>	\$ ((884)) <u>888</u>
2	((605)) <u>607</u>	((1,119)) <u>1,122</u>
3	((749)) <u>752</u>	((1,386)) <u>1,391</u>
4	((880)) <u>884</u>	((1,628)) <u>1,635</u>
5	((1,014)) <u>1,019</u>	((1,876)) <u>1,885</u>

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 29, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-478-0015 Need standards for cash assistance ~~((need standards))~~. ~~((1))~~ The ~~((cash assistance))~~ need standards ~~((and one hundred eighty five percent of the need standards))~~ for cash assistance units ~~((with obligations to pay shelter costs))~~ are:

(1) For assistance units with obligation to pay shelter costs:

Assistance Unit Size	Need Standard	185% of Need
6	\$ ((1,914)) <u>1,918</u>	\$ ((3,540)) <u>3,549</u>
7	((2,210)) <u>2,215</u>	((4,088)) <u>4,098</u>
8	((2,446)) <u>2,452</u>	((4,525)) <u>4,536</u>
9	((2,686)) <u>2,693</u>	((4,969)) <u>4,982</u>
10 or more	((2,919)) <u>2,926</u>	((5,400)) <u>5,413</u>

Assistance Unit Size	Need Standard	185% of Need
6	\$ ((1,152)) <u>1,156</u>	\$ ((2,131)) <u>2,138</u>
7	((1,332)) <u>1,335</u>	((2,460)) <u>2,469</u>
8	((1,472)) <u>1,478</u>	((2,723)) <u>2,734</u>
9	((1,617)) <u>1,623</u>	((2,991)) <u>3,002</u>
10 or more	((1,757)) <u>1,764</u>	((3,250)) <u>3,263</u>

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 29, 1999

Jim Jesernig
Director

WSR 99-04-069
PERMANENT RULES
DEPARTMENT OF AGRICULTURE

[Filed February 1, 1999, 2:02 p.m.]

Date of Adoption: November 4, 1998.

Purpose: WAC 16-604-010 was replaced with new language contained in WAC 16-607-120.

Citation of Existing Rules Affected by this Order: Repealing 1 [WAC 16-604-010].

Statutory Authority for Adoption: Chapter 16.65 RCW. Adopted under notice filed as WSR 98-15-157 on July 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.

PERMANENT

WSR 99-04-070
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed February 1, 1999, 3:38 p.m.]

Date of Adoption: January 29, 1999.

Purpose: Update the Washington model traffic ordinance to incorporate changes made by the 1998 legislature.

Citation of Existing Rules Affected by this Order: Amending WAC 308-330-300, 308-330-307, and 308-330-425.

Statutory Authority for Adoption: RCW 46.90.010.

Adopted under notice filed as WSR 99-01-143 on December 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 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 29, 1999

Fred Stephens

Director

AMENDATORY SECTION (Amending WSR 97-10-068, filed 5/5/97, effective 6/5/97)

WAC 308-330-300 RCW sections adopted—Certificates of ownership and registrations. The following sections of the Revised Code of Washington (RCW) pertaining to vehicle certificates of ownership and registrations as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.12.005, 46.12.070, 46.12.080, 46.12.101, 46.12.102, 46.12.103, 46.12.160, 46.12.210, 46.12.215, 46.12.220, 46.12.250, 46.12.260, 46.12.270, 46.12.300, 46.12.310, 46.12.320, 46.12.330, 46.12.340, 46.12.350, and 46.12.380.

AMENDATORY SECTION (Amending WSR 97-16-041, filed 7/31/97, effective 8/31/97)

WAC 308-330-307 RCW sections adopted—Driver licenses-identificards. The following sections of the Revised Code of Washington (RCW) pertaining to driver licenses and identification cards as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.20.005, 46.20.015, 46.20.021, 46.20.022, 46.20.025,

46.20.027, 46.20.031, 46.20.041, 46.20.045, 46.20.055, 46.20.070, 46.20.190, 46.20.220, 46.20.308, 46.20.3101, 46.20.336, 46.20.338, 46.20.342, 46.20.343, (~~46.20.344~~), 46.20.391, 46.20.394, 46.20.410, 46.20.420, 46.20.430, 46.20.500, 46.20.510, 46.20.550, 46.20.720, 46.20.730, 46.20.740, and 46.20.750(~~46.20.3101~~, and sections 1 and 2, chapter 66, Laws of 1997).

AMENDATORY SECTION (Amending WSR 97-16-041, filed 7/31/97, effective 8/31/97)

WAC 308-330-425 RCW sections adopted—Reckless driving, vehicular homicide and assault. The following sections of the Revised Code of Washington (RCW) pertaining to reckless driving, driving while under the influence of intoxicating liquor or any drug, vehicular homicide and assault as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.500, 46.61.502, 46.61.503, 46.61.504, 46.61.5054, 46.61.5055, (~~46.61.5057~~) 46.61.50571, 46.61.5058, 46.61.506, 46.61.513, 46.61.517, 46.61.519, 46.61.5191, 46.61.5195, 46.61.5249, 46.61.525, 46.61.527, 46.61.530, 46.61.535, and 46.61.540(~~46.61.540~~, and section 4, chapter 66, Laws of 1997).

WSR 99-04-071
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services)

[Filed February 1, 1999, 3:43 p.m.]

Date of Adoption: February 1, 1999.

Purpose: Pilot rules have been in existence since 1996. Because the program has been operating successfully as a pilot, rules for the family support opportunity are now being adopted permanently. These rules cover the purpose, eligibility, and basic service elements of the program as well as the formation of regional family support advisory councils and community service grants. The rules state that all family support clients starting June 1996 or later will be covered under these rules.

Citation of Existing Rules Affected by this Order: Amending WAC 275-27-020.

Statutory Authority for Adoption: RCW 71A.12.030.

Adopted under notice filed as WSR 98-23-095 on November 18, 1998.

Changes Other than Editing from Proposed to Adopted Version: Based on comments at the public hearing and other written comments received, the following changes were made: In WAC 275-27-196, the age for approval of diapers was lowered from four to three; goals were enlarged for community service grants in WAC 275-27-192; "long-term funding" was added to the description of serious need; and the families' role in the use of community guides was clarified in WAC 275-27-191 and 275-27-190. Subsection (2)(b) was deleted from WAC 275-27-200.

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 18, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 18, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 18, Amended 1, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 1, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-20-044, filed 9/30/98, effective 10/7/98)

WAC 275-27-020 Definitions. ~~((+))~~ **"Adolescent"** means a DDD eligible child age thirteen through seventeen years.

~~((2))~~ **"Best interest"** includes, but is not limited to, client-centered benefits to:

~~((a))~~ (1) Prevent regression or loss of skills already acquired;

~~((b))~~ (2) Achieve or maintain economic self-support;

~~((c))~~ (3) Achieve or maintain self-sufficiency;

~~((d))~~ (4) Prevent or remedy neglect, abuse, or exploitation of individuals unable to protect their own interest;

~~((e))~~ (5) Preserve or reunite families; and

~~((f))~~ (6) Provide the least-restrictive setting that will meet the person's medical and personal needs.

~~((3))~~ **"Client or person"** means a person the division determines under RCW 71A.16.040 and WAC 275-27-026 eligible for division-funded services.

~~((4))~~ **"Community support services"** means one or more of the services listed in RCW 71A.12.040 including, but not limited to the following services: Architectural, case management, early childhood intervention, employment, counseling, family support, respite care, information and referral, health services and equipment, therapy services, and residential support.

~~((5))~~ **"Department"** means the department of social and health services of the state of Washington.

~~((6))~~ **"Director"** means the director of the division of developmental disabilities.

~~((7))~~ **"Division or DDD"** means the division of developmental disabilities of the department of social and health services.

~~((8))~~ **"Emergency"** means a sudden, unexpected occurrence demanding immediate action.

~~((9))~~ **"Exemption"** means the department's approval of a written request for an exception to a rule in this chapter.

~~((10))~~ **"Family"** means individuals, of any age, living together in the same household and related by blood, marriage, adoption or as a result of sharing legal custody of a minor child.

"Family resources coordinator" means the person who is:

(1) Recognized by the IDEA Part C lead agency; and

(2) Responsible for:

(a) Providing family resources coordination;

(b) Coordinating services across agencies; and

(c) Serving as a single contact to help families receiving assistance and services for their eligible children who are under three years of age.

"ICF/MR" means a facility certified as an intermediate care facility for the mentally retarded by Title XIX to provide services to the mentally retarded or persons with related conditions.

~~((11))~~ **"ICF/MR Eligible"** for admission to an ICF/MR means a person is determined by DDD as needing active treatment as defined in CFR 483.440. Active treatment requires:

~~((a))~~ (1) Twenty-four hour supervision; and

~~((b))~~ (2) Continuous training and physical assistance in order to function on a daily basis due to deficits in the following areas: Toilet training, personal hygiene, dental hygiene, self-feeding, bathing, dressing, grooming, and communication.

~~((12))~~ **"Individual"** means a person applying for services from the division.

~~((13))~~ **"Intelligence quotient score"** means a full scale score on the Wechsler, or the intelligence quotient score on the Stanford-Binet or the Leiter International Performance Scale.

~~((14))~~ **"Nonresidential programs"** means programs including, but not limited to, county-funded habilitation services.

~~((15))~~ **"Nursing facility eligible"** means a person is assessed by DDD as meeting the requirements for admission to a licensed nursing home as defined in WAC 388-97-235. The person must require twenty-four hour care provided by or under the supervision of a licensed nurse.

~~((16))~~ **"Other resources"** means resources that may be available to the client, including but not limited to:

(1) Private insurance;

(2) Medicaid;

(3) Indian health care;

(4) Public school services through the office of the superintendent of public instruction; and

(5) Services through the department of health.

"Part C" means early intervention for children from birth through thirty-five months of age as defined in the Individuals with Disabilities Education Act (IDEA), Part C and 34 CFR, Part 303 and Washington's federally approved grant.

"Residential habilitation center" or **"RHC"** means a state-operated facility certified to provide ICF/MR and/or nursing facility level of care for persons with developmental disabilities.

((17)) **"RHC capacity"** means the maximum number of eligible persons that can reside in a residential habilitation center without exceeding its 1997 legislated budgeted capacity.

((18)) **"Residential programs"** means programs providing domiciliary care or other residential services, including, but not limited to, state residential facilities, group homes, nursing facilities, ICF/MRs, tenant support services, congregate care facilities, boarding homes, children's foster homes, adult family homes, and group training homes.

((19)) **"Respite care"** means temporary residential services provided to a person and/or the person's family on an emergency or planned basis.

((20)) **"Secretary"** means the secretary of the department of social and health services or the secretary's designee.

((21)) **"Vacancy"** means an opening at a RHC, which when filled, would not require the RHC to exceed its 1997 biannually budgeted capacity, minus:

((a)) (1) Twenty-six beds designated for respite care use; and

((b)) (2) Any downsizing related to negotiations with the Department of Justice regarding community placements.

NEW SECTION

WAC 275-27-180 What is the purpose of the family support opportunity program? The purpose of the family support opportunity program is to:

- (1) Strengthen family functioning through use of the program elements;
- (2) Provide a wide range of supports that will assist and stabilize families;
- (3) Encourage individuals and local communities to provide support for the persons with developmental disabilities that live with families;
- (4) Complement other public and private resources in providing supports;
- (5) Recognize the ability of communities to participate in a variety of ways;
- (6) Allow families to make use of all program elements according to the individual and family needs; and
- (7) Provide assistance to as many families as possible.

NEW SECTION

WAC 275-27-185 Who is eligible to participate in the family support opportunity program? (1) All individuals living with their families determined to be developmentally disabled according to WAC 275-27-026 are eligible to participate in the program if their family requires assistance in meeting their needs. However, the program will fund or provide support services only as funding is available.

(2) Persons currently receiving services under WAC 275-27-220 and 275-27-223, Family support services, may volunteer to participate in the program.

(3) Families will receive program services based on the date of application.

NEW SECTION

WAC 275-27-190 What basic services can my family receive from the family support opportunity program? A number of basic services are available. Some services have their own eligibility requirements. Specific services are:

(1) **Case management services:** Your family will benefit from case management services. The family and the case manager will develop a family support plan which includes needs assessment, referral, service coordination, service authorization, case monitoring and coordination for community guide services.

(2) **Community guide services:** Once your case manager assesses your family situation, you will be offered access to the services of a community guide. The community guide will assist your family in using the natural and informal community supports relevant to the age of your family member with developmental disabilities and the specific needs of your family. Community guide services will support your family and help develop connections to your community.

(3) **Short-term intervention services:** Your family may be eligible for up to eleven hundred dollars in short-term intervention funding if necessary services are not otherwise available. This funding is not intended to cover basic subsistence such as food or shelter costs. Short-term intervention funding is available only for those specialized costs directly related to and resulting from your child's disability.

(4) **Personal care services:** Medicaid personal care can provide your family with long-term in-home personal assistance. (See WAC 388-15-880 and 388-15-890.) In home personal assistance may be available through Medicaid personal care or through a state-funded alternative.

(5) **Community alternatives program (CAP) waiver:** If eligible, your family may participate in the CAP waiver program. The CAP waiver gives eligible clients the opportunity to participate in the federal Medicaid program and DDD the opportunity to obtain federal funds for community based services. (See WAC 275-27-800, 275-27-810 and 275-27-820.)

(6) **Early intervention services:** These services are for your children (from birth through thirty-five months old) and include early childhood programs, birth through two public school programs, children with special health care needs programs, and Part C services (IDEA).

(7) **Emergency services:** Your family can request emergency funds to be used to respond to a single incident, situation or short term crisis such as care giver hospitalization, absence, or incapacity. Your request must be made through your case manager and include an explanation of how you plan to resolve the emergency situation. Your request will be reviewed by the regional administrator or designee. If approved, you will receive emergency services for a limited time period, not to exceed two months.

(8) **Serious need services:** Your family may request serious need funds to take care of needs not met by other basic services, including short-term intervention services, personal care services or use of a community guide. Serious need funds are short or long-term funds used to provide additional support to allow the individual with disabilities to continue living at home.

PERMANENT

NEW SECTION

WAC 275-27-191 What is the purpose of community guide services? (1) Community guide services are available to support your family and help you become well connected to resources or supports in your community. After an assessment, your case manager will give you information about a community guide, whose services can be used, if desired by the family.

(2) This guide will assist your family in using the natural and informal community supports relevant to the age of your child with developmental disabilities and your family's specific needs.

NEW SECTION

WAC 275-27-192 Who can become a community guide? To be a guide, a person must demonstrate his/her connections to the informal structures of their community. The department may contract with an individual, agency or organization. Guides must be knowledgeable about resources in their community and comfortable assisting families and persons with developmental disabilities. DDD will provide appropriate training for community guides within available resources.

NEW SECTION

WAC 275-27-193 Does my family have a choice in selecting its community guide? Your family will be offered a choice of community guides that best meets the needs of your family. At your family's discretion, your family resources coordinator may serve as your community guide if your developmentally disabled child is thirty-five months of age or younger.

NEW SECTION

WAC 275-27-194 Can the family support opportunity program help my family obtain financial assistance for community guide services? The program will authorize up to two hundred dollars per year for community guide services for your family.

NEW SECTION

WAC 275-27-195 How can short-term intervention services help my family? If your family is eligible, you may receive up to eleven hundred dollars per year in short-term intervention funds to pay for necessary services not otherwise available. Short-term intervention funding cannot be used for basic subsistence such as food or shelter but is available for those specialized costs directly related to and resulting from your child's disability. Short-term intervention funds can be authorized for a one-time only need or for an episodic service need that occurs over a one-year period.

NEW SECTION

WAC 275-27-196 Specifically how can short-term intervention funds be used? Short-term intervention funds can be used to purchase a wide range of services and supports, such as:

(1) Respite care, including community activities providing respite, attendant care or nursing care;

(2) Training such as parenting classes and supports such as disability related support groups;

(3) The purchase, rental, loan or refurbishment of specialized equipment, adaptive equipment or supplies not covered by other resources, including Medicaid. Specific examples are mobility devices such as walkers and wheelchairs, communication devices and medical supplies. Diapers may be approved only for those three years of age and older.

(4) Environmental modifications including home damage repairs caused by the client and home modifications made necessary because of a family member's disability;

(5) Occupational therapy, physical therapy, communication therapy, behavior management, visual and auditory services, or counseling needed by developmentally disabled individuals but not covered by another resource such as public schools and child development services funding;

(6) Medical/dental services not covered by any other resource. These services may include the payment of insurance premiums and deductibles but are limited to the portion of the premium or deduction that applies to the client.

(7) Nursing services, not covered by another resource, that cannot be provided by an unlicensed care giver but can only be rendered by a registered or licensed practical nurse. Examples of such services are ventilation, catheterization, and insulin shots;

(8) Special formulas or specially prepared foods necessary because of the client's disability;

(9) Parent/family counseling for grief and loss issues, genetic counseling or behavior management;

(10) Specialized clothing adapted for a physical disability, excessive wear clothing, or specialized footwear;

(11) Specialized utility costs including extraordinary utility costs resulting from the client's disability or medical condition;

(12) If another resource is not available, transportation costs, including gas, ferry or transit cost, so a client can receive essential services and maintain appointments; per diem costs may be reimbursed for medical appointments; and

(13) Other services approved by a DDD regional administrator or designee, according to established department guidelines.

NEW SECTION

WAC 275-27-197 How can serious need funds help my family? Your family may need extraordinary support for children or adults with developmental disabilities living in your home in addition to the basic family support services. The purpose of serious need funds is to help you get that support when you need it. If funding is available, it may be short or long-term in nature and can be used for services such as

additional personal care, respite care, behavior management and licensed nursing care.

NEW SECTION

WAC 275-27-198 How can my family qualify for serious need funds? Your family may qualify for serious need funds if the following conditions are met:

(1) The basic program services outlined in WAC 275-27-190 (community guide, personal care services, short-term intervention services, etc.) are currently being used by your family or they have been exhausted;

(2) You and your case manager have examined other resources like the medically intensive home care program; private insurance, local mental health programs and programs available through the public schools and have found them either unavailable, inappropriate or insufficient for your needs; and

(3) The support is crucial for the child or adult with developmental disabilities to continue living in your home.

NEW SECTION

WAC 275-27-199 How does my family request serious need funds? You must contact your case manager who will submit a written request to the appropriate DDD regional administrator. The request must:

- (1) Indicate the type of services your family needs;
- (2) Explain why those services can only be obtained through the use of serious need funds;
- (3) Outline the changes you anticipate in your family situation if the requested services are not received;
- (4) Estimate the length of time your family will need the requested services; and
- (5) Propose funding review dates.

NEW SECTION

WAC 275-27-200 What amount of serious need funding is available to my family? (1) The maximum amount of funding available is four hundred dollars per month or two thousand four hundred dollars in a six-month period, unless the department determines your family member requires licensed nursing care and the funding is used to pay for nursing care. If licensed care is required, the maximum funding level is two thousand four hundred dollars per month.

(2) **REMEMBER:**

- (a) Funding must be available in order to receive serious need services.
- (b) Services paid for by serious needs funds will be reviewed by DDD every six months.

NEW SECTION

WAC 275-27-202 Who determines what family support services my family can receive? Your family and your case manager determine what services your family needs. The department has final approval over service authorization.

NEW SECTION

WAC 275-27-204 What department restrictions apply to family support payments? (1) All family support service payments must be authorized by the department.

(2) The department may contract directly with:

- (a) A service provider, or
- (b) A parent for the reimbursement of goods or services purchased by the parent, or
- (c) An agency to purchase goods and services on behalf of a client.

(3) The department's authorization period will start when you agree to be in this program. The period will last one year and may be renewed if you continue to need services.

NEW SECTION

WAC 275-27-211 What are regional family support advisory councils? (1) Each division of developmental disabilities regional administrator must appoint a family support advisory council which may serve as a subcommittee of the regional advisory council. The membership of the family support advisory council must include at least one parent representative and at least one case manager.

(2) The purpose of these family support advisory councils is to advise the regional administrator regarding:

- (a) Family support issues;
 - (b) Guidelines for approving or denying short term intervention requests;
 - (c) Community needs; and
 - (d) Recommendations for community service grants.
- (3) Family support advisory councils must meet at least twice a year.

NEW SECTION

WAC 275-27-212 What are community service grants? (1) Community service grants are funded by the division of developmental disabilities family support program to promote community oriented projects that benefit families. Community service grants may fund long-term or short-term projects that benefit children and/or adults.

Agencies or individuals may apply for funding. The department will announce the availability of funding.

(2) To qualify for funding, a proposed project must address one or more of the following topics:

- (a) Provider support and development;
 - (b) Parent helping parent; or
 - (c) Community resource development for inclusion of all.
- (3) Goals for community service projects are as follows:
- (a) Enable families to use generic resources;
 - (b) Reflect geographic, cultural and other local differences;
 - (c) Support families in a variety of noncrisis-oriented ways;
 - (d) Prioritize support for unserved families;
 - (e) Address the diverse needs of Native Americans, communities of color and limited or non-English speaking groups;

- (f) Be family focused;
 - (g) Increase inclusion of persons with developmental disabilities;
 - (h) Benefit families who have children or adults eligible for services from DDD; and
 - (i) Promote community collaboration, joint funding, planning and decision making.
- (4) Decisions to approve or reject community service grant requests are made by DDD regional administrators considering the recommendations of their regional family support advisory councils. The DDD director has the discretion to award community service grants that have statewide significance.
- (5) DDD may sponsor two family support conferences in different areas of the state each year. The purpose of these conferences is to discuss areas addressed by community service grants and other issues of importance to families.

NEW SECTION

WAC 275-27-213 Who is covered under these rules?
 These sections (WAC 275-27-180 through 275-27-212) apply to persons enrolled in family support after June 1996. Those enrolled before June 1996 are covered under WAC 275-27-220 through 275-27-223.

WSR 99-04-074

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed February 2, 1999, 11:03 a.m.]

Date of Adoption: February 1, 1999.

Purpose: Incorporation by reference of the 1998 [1999] edition of the uniform standards of professional appraisal practice, the generally recognized national organized standards of real estate appraisal. Incorporation by reference is required because to incorporate the whole text would be unduly cumbersome and expensive.

Citation of Existing Rules Affected by this Order:
 Amending WAC 308-125-200.

Statutory Authority for Adoption: RCW 43.24.086.

Adopted under notice filed as WSR 98-24-044 on November 24, 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 1, 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 Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 1, 1999

Alan E. Rathbun

Assistant Director, BPD

AMENDATORY SECTION (Amending WSR 98-17-083, filed 8/18/98, effective 9/18/98)

WAC 308-125-200 Standards of practice. (1) The standard of practice governing real estate appraisal activities will be the ((1998)) 1999 edition of the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation. A copy of the Uniform Standards of Professional Appraisal Practice is available for review and inspection at the office of the Real Estate Appraiser Unit Office, Olympia, Washington. The Uniform Standards of Professional Appraisal Practice is a copyright document. Copy of the full text may be obtained from the Appraisal Foundation at The Appraisal Foundation, P.O. Box 96734, Washington, DC 20090-6734.

(2) Expert review appraisers as defined by RCW 18.140.010(11) while performing expert reviews pursuant to chapter 18.140 RCW are exempt from the Uniform Standards of Professional Appraisal Practice, Standard 3 review provisions while performing expert reviews for the director.

WSR 99-04-075

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed February 2, 1999, 11:07 a.m.]

Date of Adoption: February 1, 1999.

Purpose: Under provision of RCW 43.24.086, the cost of each professional licensing program shall be borne by the members of the profession. The director of the Department of Licensing is charged with setting fees at a level sufficient to defray the costs of administering the program.

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

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

Citation of Existing Rules Affected by this Order:
 Amending WAC 308-125-120 Fees and charges.

Statutory Authority for Adoption: RCW 43.24.086.

Adopted under notice filed as WSR 98-23-025 on November 9, 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 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 8, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 1, 1999
 Alan E. Rathbun
 Assistant Director

AMENDATORY SECTION (Amending WSR 97-21-077, filed 10/17/97, effective 1/1/98)

WAC 308-125-120 Fees and charges. The following fees shall be paid under the provisions of chapter 18.140 RCW:

Title of Fee	Fee
(1) Application for examination	\$(182.00) 196.00
(2) Examination	((100.00**)) {75.00}} 100.00**
(3) Reexamination	((100.00**)) {75.00}} 100.00**
(4) Original certification	((102.00*)) 106.00*
(5) Certification renewal	((284.00*)) 302.00*
(6) Late renewal penalty	((36.00)) 38.00
(7) Duplicate certificate	((26.00)) 28.00
(8) Certification history record	((25.00)) 27.00
(9) Application for reciprocity	((182.00)) 196.00
(10) Original certification via reciprocity	((102.00*)) 106.00*
(11) Temporary practice	150.00

* Proposed fees for these categories marked with an asterisk include an estimated \$25.00 to be submitted by the state to Federal Government. Title XI, SEC. 1109 requires each state to submit a roster listing of state certified appraisers to the Appraiser Subcommittee "no less than annually." The state is also required to collect from such individuals who perform appraisals in federally related transactions, an annual registry fee of "not more than

\$50," such fees to be transmitted by the state to the federal government on an annual basis.
 ((~~** Charges for categories marked with a double asterisk are determined by contract with an outside testing service.))
 ** Charges for categories marked with a double asterisk are determined by contract with an outside testing service.~~

WSR 99-04-077
PERMANENT RULES
LOTTERY COMMISSION
 [Filed February 2, 1999, 11:50 a.m.]

Date of Adoption: January 14, 1999.

Purpose: To prohibit the sale of any on-line ticket or combination of tickets which would guarantee a jackpot or grand prize; to prohibit persons from making multiple, machine-generated entries.

Statutory Authority for Adoption: RCW 67.70.040.

Adopted under notice filed as WSR 98-24-046 on November 25, 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 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 1, 1999
 Mary Jane Ferguson
 Rules Coordinator

NEW SECTION

WAC 315-06-075 Game sell-out prohibited. No Washington state lottery retailer shall sell a ticket or combination of on-line lottery tickets, which would guarantee the purchaser a jackpot or grand prize.

NEW SECTION

WAC 315-06-085 Hand-marked play slips. Plays may only be entered manually using the lottery terminal keypad or by means of a play slip provided by the lottery and hand-marked by the player. Retailers shall not permit the use of facsimiles of play slips, copies of play slips, or other materials that are inserted into the terminal's play slip reader that are not printed or approved by the lottery. Retailers shall not permit any device to be connected to a lottery terminal to enter plays, except as approved by the lottery.

PERMANENT

WSR 99-04-103
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)
 (Division of Assistance Programs)
 [Filed February 3, 1999, 9:37 a.m.]

Date of Adoption: February 3, 1999.

Purpose: Amend WAC 388-478-0055 SSI standards, to pass along the federal 1.3% cost-of-living adjustment (COLA) for the supplemental security income (SSI) program, effective January 1, 1999. There is no change in the SSI state supplement payment amount.

This rule was adopted on an emergency basis on January 1, 1999, under WSR 99-01-028.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0055.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: RCW 74.04.630.

Adopted under notice filed as WSR 99-01-027 on December 8, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 3, 1999

Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-478-0055 SSI standards. (1) Supplemental Security Income (SSI) is a cash assistance program for needy individuals and couples who meet federal disability guidelines as aged, blind or disabled. Since the SSI program began in January 1974, the state of Washington has (~~supplemented~~) supplemented the federal benefit level with state funds, known as the SSI state supplement. Persons found eligible for SSI receive cash assistance based on the combined federal and state supplement benefit levels, minus countable income.

(2) Effective January 1, (~~1998~~) 1999, the federal, state and combined benefit levels for an eligible individual and couple are:

(a) Area I: King, Pierce, Snohomish, Thurston, and Kitsap Counties.

(i) Living alone (own household or alternate care, except nursing homes or medical institutions).

	Federal Benefit Level	State Supplement Benefit Level	Combined Federal/ State Benefit Level
LIVING ALONE			
Individual	\$((494.00)) <u>500.00</u>	\$27.00	\$((521.00)) <u>527.00</u>
Individual with One Essential Person ¹	\$((741.00)) <u>750.00</u>	\$21.00	\$((762.00)) <u>771.00</u>
Couple, both Eligible	\$((741.00)) <u>751.00</u>	\$21.00	\$((762.00)) <u>772.00</u>
Couple with One Essential Person ²	\$((741.00)) <u>751.00</u>	\$21.00	\$((762.00)) <u>772.00</u>
Couple includes Ineligible Spouse	\$((494.00)) <u>500.67</u>	\$167.20	\$((661.20)) <u>667.87</u>

(ii) Shared living (supplied shelter).

	Federal Benefit Level	State Supplement Benefit Level	Combined Benefit Level
SHARED LIVING			
Individual	\$((329.34)) <u>333.34</u>	\$4.81	\$((334.15)) <u>338.15</u>
Individual with One Essential Person ³	\$((494.00)) <u>500.00</u>	\$5.30	\$((499.30)) <u>505.30</u>
Couple, Both Eligible	\$((494.00)) <u>500.67</u>	\$5.30	\$((499.30)) <u>505.97</u>
Couple includes One Essential Person ⁴	\$((494.00)) <u>500.67</u>	\$5.30	\$((499.30)) <u>505.97</u>
Couple includes Ineligible Spouse	\$((329.34)) <u>333.34</u>	\$102.76	\$((432.10)) <u>436.10</u>

(b) Area II: All counties other than the above.

(i) Living alone (own household or alternate care, except nursing homes or medical institutions).

	Federal Benefit Level	State Supplement Benefit Level	Combined Federal/ State Benefit Level
LIVING ALONE			
Individual	\$((494.00)) <u>500.00</u>	\$6.55	\$((500.55)) <u>506.55</u>
Individual with One Essential Person ¹	\$((741.00)) <u>750.00</u>	\$0	\$((741.00)) <u>750.00</u>
Couple, Both Eligible	\$((741.00)) <u>751.00</u>	\$0	\$((741.00)) <u>751.00</u>

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Couple with One Essential Person ²	\$(741.00) <u>751.00</u>	\$0	\$(741.00) <u>751.00</u>
Couple includes Ineligible Spouse	\$(494.00) <u>500.67</u>	\$137.25	\$(631.25) <u>637.92</u>

(ii) Shared living (supplied shelter).

	Federal Benefit Level	State Supplement Benefit Level	Combined Benefit Level
SHARED LIVING			
Individual	\$(329.34) <u>333.34</u>	\$4.81	\$(334.15) <u>338.15</u>
Individual with One Essential Person ³	\$(494.00) <u>500.00</u>	\$5.30	\$(499.30) <u>505.30</u>
Couple, Both Eligible	\$(494.00) <u>500.67</u>	\$5.30	\$(499.30) <u>505.97</u>
Couple includes One Essential Person ⁴	\$(494.00) <u>500.67</u>	\$5.30	\$(499.30) <u>505.97</u>
Couple includes Ineligible Spouse	\$(329.34) <u>333.34</u>	\$102.76	\$(432.10) <u>436.10</u>

(c) Residing in a medical institution: Area I and II

MEDICAL INSTITUTION	Federal Benefit Level	State Supplement Benefit Level	Combined Benefit Level
Individual	\$30.00	\$11.62	\$41.62

(d) Mandatory income level (MIL) for grandfathered claimant. "Grandfathered" refers to a person who qualified for assistance from the state as aged, blind, or disabled, was converted from the state to federal disability assistance under SSI in January 1974, and has remained continuously eligible for SSI since that date.

The combined federal/state SSI benefit level for MIL clients is the higher of the following:

- (i) The state assistance standard they received in December 1973, except for those converted in a "D" living arrangement (residing in a medical institution at the time of conversion), plus the federal cost-of-living adjustments (COLA) since then; or
- (ii) The current standard.

¹ Eligible individual with more than one essential person living alone: ~~\$(494.00)~~ 500.00 for the eligible individual plus ~~\$(247.00)~~ 250.00 for each essential person (no state supplement).

² Eligible couple with one or more essential persons living alone: ~~\$(741.00)~~ 751.00 for eligible couple plus ~~\$(247.00)~~ 250.00 for each essential person (no state supplement).

³ Eligible individual with more than one essential person in shared living: ~~\$(329.34)~~ 333.34 for eligible individual plus ~~\$(164.66)~~ 166.66 for each essential person (no state supplement).

⁴ Eligible couple with one or more essential persons in shared living: ~~\$(494.00)~~ 500.67 for eligible couple plus ~~\$(164.66)~~ 166.66 for each essential person (no state supplement).

cards. The proposed rule outlines the procedures under which agency vendors may accept bank debit and credit cards.

Statutory Authority for Adoption: RCW 66.08.030, 66.16.041.

Adopted under notice filed as WSR 98-22-093 on November 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 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 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.

February 1, 1999

Eugene Prince

Chairman

WSR 99-04-114
PERMANENT RULES
LIQUOR CONTROL BOARD

[Filed February 3, 1999, 11:22 a.m.]

Date of Adoption: January 27, 1999.

Purpose: To create a new rule, WAC 314-37-030, in order to outline the procedures under which state agency vendors may accept bank credit and debit cards for liquor purchases.

The 1997 legislature authorized the Liquor Control Board to allow the use of credit card and debit cards in all state liquor stores and agencies. The board was given rule-making authority to implement the use of credit and debit

NEW SECTION

WAC 314-37-030 Bank credit cards and debit cards.

(1) May liquor vendors accept bank credit cards and debit cards?

Yes. Per RCW 66.16.041, liquor vendors may accept bank credit cards and debit cards for liquor purchases from non-licensees. Any equipment provided by the board to an agency liquor vendor may be used only for the sale of liquor obtained from the board.

(2) What are the procedures for accepting bank credit cards and debit cards for liquor purchases? The

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procedures for accepting bank credit cards and debit cards for liquor purchases are as follows:

(a) **Sales transactions.**

(i) All credit/debit card sales transactions will be made in accordance with liquor control board and SPS procedures.

(ii) Cash back is not allowed.

(iii) Batch closing must be done nightly in order to ensure transactions are processed in a timely manner.

(b) **Recording transactions.** Liquor vendors will record transactions on forms provided by the liquor control board.

(c) **Reporting.** Liquor vendors will report all credit/debit card sales to the administrative services division of the liquor control board.

(d) **Retention of records.**

(i) All credit/debit card receipts and balancing reports will be kept for the current fiscal year, in addition to the prior two complete fiscal years.

(ii) Liquor vendors are responsible for the security of all credit/debit card records.

WSR 99-04-117

PERMANENT RULES

PARKS AND RECREATION

COMMISSION

[Filed February 3, 1999, 11:51 a.m.]

Date of Adoption: January 29, 1999.

Purpose: To amend chapter 352-12 WAC, WAC 352-12-005 Definitions, 352-12-010 Moorage and use of marine and inland water facilities, 352-12-020 Moorage fees, 352-12-030 Annual moorage permits, 352-12-040 Use of onshore campsites, and 352-12-050 Self-registration, to update language consistent with changes in recreational activities.

Statutory Authority for Adoption: RCW 43.51.040.

Adopted under notice filed as WSR 99-01-120 on December 18, 1998.

Changes Other than Editing from Proposed to Adopted Version: Added a new term to definition section as follows: WAC 352-12-005(3) "Designated fee facility," and clarified WAC 352-12-010(3) by modifying language to eliminate terminology stating (-designated marine park areas and at designated -) replacing with (+ posted as available for such use.+). Other changes are spelling and editorial.

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 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 29, 1999

Jim French

Senior Policy Analyst

Chapter 352-12 WAC

MOORAGE AND USE OF MARINE AND INLAND WATER FACILITIES

AMENDATORY SECTION (Amending Order 59, filed 3/31/82)

WAC 352-12-005 Definitions. As used in this chapter, the following words and terms have the meanings indicated, unless the context clearly requires otherwise:

(1) "Commercial vessel" shall mean a vessel which is used, rigged, or licensed for any commercial use or purpose, but shall not include vessels operated within the terms of a concession lease or agreement with the commission.

(2) "Commission" shall mean the Washington state parks and recreation commission. ~~((Where appropriate, the term "commission" also refers to the staff and employees of the Washington state parks and recreation commission.~~

~~(2))~~ (3) "Designated fee facility" shall mean any facility designated as a fee facility by the director or designee.

(4) "Director" shall mean the director of the Washington state parks and recreation commission.

(5) "Facility" shall mean state park floats, piers ~~((and)),~~ mooring buoys, docks, pilings and linear moorage facilities.

~~((3))~~ (6) "Length" shall mean the overall length of a vessel as measured in a straight line parallel to the keel from the foremost part of the vessel to the aftermost part, not including bowsprit or bumkin or as shown on vessel's state or coast guard registration certificate.

(7) "Manager or ranger" shall mean a duly appointed Washington state parks ranger, or agent of the commission, who is vested with police powers under RCW 43.51.170.

(8) "Night" shall mean the period between 3 p.m. and 8 a.m.

(9) "Vessel" shall mean watercraft of every description, used or capable of being used as a means of transportation on the water.

~~((4) "Commercial vessel" shall mean a vessel which is used, rigged, or licensed for any commercial use or purpose, but shall not include vessels operated within the terms of a concession lease or agreement with the commission.~~

(5) "Length" shall mean the overall length of a vessel as measured in a straight line parallel to the keel from the foremost part of the vessel to the aftermost part, not including bowsprit or bunkin or as shown on vessel's state or coast guard registration certificate.

(6) "Night" shall mean the period between 3 p.m. and 8 a.m.))

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AMENDATORY SECTION (Amending WSR 92-19-098, filed 9/17/92, effective 10/18/92)

WAC 352-12-010 Moorage and use of marine and inland water facilities. (1) Marine and inland water facilities of the state parks within the Washington state parks and recreation commission system are designed and administered specifically to provide recreational opportunities for park visitors. Use of park facilities for purposes which are of a non-recreational nature, such as long-term residency at park facilities, obstructs opportunities for recreational use, and is inconsistent with the purposes for which those facilities were designed.

(2) In order to afford the general public the greatest possible use of facilities, continuous moorage at a facility by the same vessel shall be limited to three consecutive nights, after which the vessel must vacate the facility for twenty-four consecutive hours, unless otherwise posted by the manager at any individual facility or area.

(3) No person or persons shall moor (~~(or)~~), berth or store a vessel of any type in a commission owned or operated park or (~~(marine)~~) area except in (~~(designated marine park areas and at designated)~~) facilities posted as available for such use.

~~((2))~~ (4) Use of (~~(designated marine park areas and)~~) facilities by commercial vessels is prohibited except for the loading and unloading of passengers transported for recreation purposes: Provided however, (~~(Park)~~) Managers and (~~(park)~~) rangers may allow extended or night moorage at any facility (~~(during the period September 15 through April 30, inclusive,)~~) to commercial vessels unloading passengers transported to the park for recreation purposes if in the manager's or ranger's sole discretion sufficient space is reasonably available therefor. Commercial recreation providers operating such vessels must be in possession of a commercial recreation provider permit as required under WAC 352-32-330.

~~((3) In order to afford the general public the greatest possible use of marine park facilities, continuous moorage at a facility by the same vessel, person or persons shall be limited to three consecutive nights, unless otherwise posted by the commission at any individual facility or area.~~

~~(4))~~ (5) In order to maximize usable space at mooring floats, boaters shall (~~(, whenever necessary,)~~) moor their vessels as close as reasonably possible to vessels already moored; and dinghies shall not be left moored to transoms or swimsteps, nor tied to or alongside moorage floats. Dinghies shall be tied up only in designated spaces or outboard of the moored vessel. Rafting of vessels is also permitted, within posted limits, but not mandatory.

~~((5))~~ (6) Use of any (~~(state park marine)~~) facility shall be on a first-come, first-served basis only. Reserving or retaining space to moor or berth a vessel at any facility, by means of a dinghy or any method other than occupying the space by the vessel to be moored, shall not be permitted.

~~((6) Dinghies shall be tied up only in designated spaces on moorage floats.)~~

(7) Open flames or live coals, or devices containing or using open flames, live coals or combustible materials, including but not limited to barbecues, hibachis, stoves and heaters, shall be permitted on (~~(state park)~~) floats or piers

only when placed on a fireproof base and the fire is located away from fuel tanks and/or fuel vents. In case of dispute related to fire safety, the manager or ranger shall make final determination.

(8) Except as provided in WAC 352-12-060, any violation of this section is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 95-22-067, filed 10/30/95, effective 1/1/96)

WAC 352-12-020 Moorage fees. (1) Vessels moored between 3 p.m. and 8 a.m. at those facilities designated by the director or designee shall be charged the (~~(nightly)~~) moorage fee published by state parks (~~(during the period May 1 through September 30, inclusive. Provided, however, This fee shall be applicable all year at Blake Island, Cornet Bay, Fort Worden, Jarrell Cove, and Mystery Bay State Parks))~~): Provided (~~(further)~~), Vessels properly displaying a valid annual permit shall not be charged a (~~(nightly)~~) moorage fee: Provided further, There shall be no moorage fee for any vessel riding on its own anchor: Provided further, There shall be no charge for temporary moorage for the purpose of loading or unloading a vessel, such temporary moorage shall be limited to thirty minutes.

(2) A vessel rafted to another vessel shall be charged the appropriate moorage fee based on that vessel's own length.

(3) Except as provided in WAC 352-12-060, any violation of this section is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 95-22-067, filed 10/30/95, effective 1/1/96)

WAC 352-12-030 Annual moorage permits. (1) Annual moorage permits may be obtained for the period January 1 through December 31, inclusive. Application for such permits may be obtained from most state park managers or rangers, or by writing to the Commission Headquarters, 7150 Cleanwater Lane, P.O. Box 42650, Olympia, WA 98504-2650.

(2) Annual moorage permits will be issued for a particular vessel. The charge for such permits will be based upon the length of the vessel for which the permit is issued and will be published by state parks.

(3) Annual permits shall be visible from outside the vessel, and permanently affixed to the lower left corner of the vessel's left (port) forward windshield, or if not equipped with a windshield, to the left (port) outside transom, or if a sailboat, on the forward portion of the left (port) cabin trunk.

(4) Except as provided in WAC 352-12-060, any violation of this section is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 95-22-067, filed 10/30/95, effective 1/1/96)

WAC 352-12-040 Use of onshore campsites. If any person or persons from a vessel moored at a (~~(state park marine)~~) designated facility also occupies any designated campsite onshore, the appropriate fee for such campsite(s) shall be paid in addition to any moorage fee charged pursuant to this chapter as published by state parks. Except as provided

in WAC 352-12-060, any violation of this section is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 93-06-001, filed 2/17/93, effective 3/20/93)

WAC 352-12-050 Self-registration. In those ~~((marine park areas))~~ designated facilities so posted by the ~~((commission))~~ manager, park visitors shall register for the use of ~~((marine))~~ facilities, overnight parking and onshore campsites, and pay the appropriate moorage, campsite fees or unattended vehicle overnight parking permit fee, on a self-registration basis, in accordance with all posted instructions. Failure to so register and pay required fees may result in eviction from moorage and campsite space, in addition to any other penalty prescribed by law for violation of commission rules and regulations. Except as provided in WAC 352-12-060, any violation of this section is an infraction under chapter 7.84 RCW.

WSR 99-04-053
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-05—Filed January 28, 1999, 5:00 p.m.]

Date of Adoption: January 28, 1999.

Purpose: Delay implementation of permanent rule filed in WSR 99-01-154.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-050, 220-88B-010, 220-88B-020, 220-88B-030, 220-88B-040, and 220-88B-050.

Statutory Authority for Adoption: RCW 75.08.080.

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: RCW 75.30.230 requires notification to the standing committees of the House of Representatives and Senate dealing with fisheries issues thirty days before the effective date of a rule designating an emerging commercial fishery. The department adopted the rule designating the ocean spot shrimp as an emerging commercial fishery on December 22, 1998, to be effective January 22, 1999. Notice to the standing committees was inadvertently delayed, and not mailed until January 26, 1999. This rule suspends the emerging commercial fishery for ocean spot shrimp through February 25, 1999, being thirty days after the notification was sent to the committees.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 28, 1998 [1999]

J. P. Koenings
 Director

REPEALER

The following sections of the Washington Administrative Code are repealed immediately through February 25, 1999:

WAC 220-52-050 Shrimp fishery—Coastal waters. (98-257)

WAC 220-88B-010	Emerging commercial fishery—Coastal—Purpose. (98-257)
WAC 220-88B-020	Designation of the coastal spot shrimp pot fishery and coastal shrimp trawl as emerging commercial fishery. (98-257)
WAC 220-88B-030	Emerging commercial fishery—Eligibility for coastal experimental fishery permits—Terms and conditions of use—Renewal. (98-257)
WAC 220-88B-040	Coastal spot shrimp pot experimental fishery—Season and gear—Species restriction. (98-257)
WAC 220-88B-050	Coastal spot shrimp trawl experimental fishery—Season and gear—Trawl gear restriction—Pot gear restriction—Species restriction. (98-257)

WSR 99-04-059
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-06—Filed January 29, 1999, 3:36 p.m., effective February 1, 1999, noon]

Date of Adoption: January 29, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100J; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation sets standard tribal winter season fishery. Consistent with provisions of the Columbia River Fishery Management Plan and associated management agreements. This regulation conforms state rules with tribal rules. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

EMERGENCY

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: February 1, 1999, noon.

January 29, 1999

Larry W. Peck

for Jeff P. Koenings

Director

NEW SECTION

WAC 220-32-05100J Columbia River salmon seasons above Bonneville Dam Notwithstanding the provisions of WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, carp, or sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, shad, carp, or sturgeon under the following provisions:

1) Open Periods: Noon Mondays to 4:00 p.m. Saturdays, Weekly. From February 1, 1999 through March 20, 1999.

2) Open Areas: SMCRA 1F, 1G, 1H

3) Gear: No mesh size restriction

4) It is unlawful to retain sturgeon less than 48 inches or greater than 60 inches in length.

5) Allowable sale includes: salmon, sturgeon, shad, and carp.

6) Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:

a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the tread of the Columbia River between markers located approximately 0.85 miles down river from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upstream from the eastern shoreline.

3) Notwithstanding the provisions of WAC 220-22-010, during the open periods described above:

a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 Mile Rapids located approximately 1.8 miles below the Dalles Dam.

b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 miles above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in mid-river, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy Light below John Day Dam.

c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately 1/2 mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in mid-river, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

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 4:01 p.m. March 20, 1999:

WAC 220-32-05100J

Columbia River salmon season above Bonneville Dam.

WSR 99-04-060
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-04—Filed January 29, 1999, 3:40 p.m., effective February 5, 1999, 12:01 a.m.]

Date of Adoption: January 28, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 232-28-61900B; and 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: The 1998/99 Green River pre-season wild winter steelhead runs are predicted to be 2,473 fish. The wild steelhead escapement requirements for the river is 2,000 fish, leaving 473 harvestable fish to be split equally between the treaty Indian tribes and sport anglers. It is anticipated that recreational anglers will harvest their 237 fish by February 5, 1999. 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: February 5, 1999, 12:01 a.m.

January 28, 1999

Larry Peck

for Jeff P. Koenings

Director

NEW SECTION

WAC 232-28-61900B Exceptions to statewide rules. Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. February 5, 1999, the following regulations apply:

Green (Duwamish) River (King County):

1) From the mouth to the SR 167 Highway Bridge:

Wild Steelhead release, effective February 5, 1999 through February 28, 1999.

2) From the SR 167 Highway Bridge to Tacoma Headworks Dam:

Wild Steelhead release, effective February 5, 1999 through March 15, 1999.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. March 15, 1999:

WAC 232-28-61900B Exceptions to statewide rules.

WSR 99-04-106
EMERGENCY RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed February 3, 1999, 10:16 a.m.]

Date of Adoption: February 3, 1999.

Purpose: Initiate pilot project in Pierce, Kitsap, Clallam and Jefferson counties to provide a one-time up-front discount in workers' compensation accident fund premium for state-funded nursing homes who voluntarily agree to implement a "zero lift" environment at their facility site(s).

Statutory Authority for Adoption: RCW 51.04.020, 51.16.035, 51.16.100.

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 National Institute of Occupational Safety and Health (NIOSH) is providing partial federal funding for the department to initiate a special project for state-funded nursing homes for the evaluation of a "zero lift" environment. Immediate implementation is necessary and requires that specialized equipment and new techniques be employed in an effort to potentially minimize the frequency and cost of work place injuries. Funding is being provided for a three period beginning October 1998. This rule is not to be promulgated on a permanent basis.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

February 3, 1999

Gary Moore

Director

AMENDATORY SECTION (Amending Order 73-22, filed 11/9/73, effective 1/1/74)

WAC 296-17-900 Premium discounts. In providing a rate modification system consistent with recognized insurance principles, the department may, in addition to the experience rating plan, provide a premium discount plan which recognizes the differences in administrative expense to the department in collecting premiums from employers based on differences in their premium volume. The department may also provide premium discounts to employers who agree to meet certain requirements not required of all employers, such as: Participating in pilot programs or initiatives for the stimulation or encouragement of accident prevention; using alternative premium reporting and payment procedures; or adopting loss control initiatives.

EMERGENCY

WSR 99-04-001
NOTICE OF PUBLIC MEETINGS
COMMISSION ON
HISPANIC AFFAIRS
 [Memorandum—January 20, 1999]

WASHINGTON STATE COMMISSION ON HISPANIC AFFAIRS
MEETING SCHEDULE FOR 1999

February 27	Bellingham
April 17	Spokane
June 12	Olympia
August 7	Moses Lake
October 16	Yakima
November 13	Seattle

Meetings begin at 10:00 a.m. and end at 3:00 p.m.
 Community input is generally heard at the beginning of the meeting.

Agenda and location of commission meetings are sent out approximately three weeks prior to each meeting.

WSR 99-04-009
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
 (Blueberry Commission)
 [Memorandum—January 20, 1999]

Meetings in 1999

At our January 11, 1999, meeting the following meeting dates were set for 1999:

March 29, 1999	1:00 p.m.	Allmendinger Center, WSU Research and Extension Center, Puyallup
June 14, 1999	1:00 p.m.	Chicona Conference Room, WSU Research and Extension Center, Puyallup
October 11, 1999	1:00 p.m.	Chicona Conference Room, WSU Research and Extension Center, Puyallup
January 10, 2000	1:00 p.m.	Chicona Conference Room, WSU Research and Extension Center, Puyallup

WSR 99-04-010
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
 (Cranberry Commission)
 [Memorandum—January 18, 1999]

Following is the 1999 meeting schedule for the Washington State Cranberry Commission, 2904 Pioneer Road, Long Beach, WA 98631:

There are two regular meetings. One on February 27, 1999, following the Washington State University workshop held in South Bend, Washington. Each year the commission has their meeting after this workshop.

Our second meeting of the year is held the second week in September at the Pacific County Annex, South Bend Washington. The date and time to be announced.

WSR 99-04-011
AGENDA
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 [Filed January 22, 1999, 9:30 a.m.]

Department of Financial Institutions
Semi-Annual Agenda for Rules Under Development
January 1, 1999—June 30, 1999

DIVISION OF BANKS

1. Amending chapter 50-44 WAC, Schedule of costs of examinations.
2. Recodifying and housekeeping of Titles 50 and 419 WAC to move those sections under Title 208 WAC and amending references to "supervisor of banking," etc.
3. Repeal chapter 50-16 WAC, Consumer Finance Act rules.

DIVISION OF CONSUMER SERVICES

1. Amendments to chapter 208-660 WAC, relating to mortgage brokers and loan originators, to revise language to be consistent with terms in the statute, delete references to branch manager requirements that were repealed, insert priority for claims against the bond that exist in statute, correct record-keeping time period, correct trust account deposit time frames, and correct internal references.
2. Amendments to chapter 208-630 WAC, relating to check cashers and sellers, to correct internal references and clarify deposit requirements and record-keeping requirements for small loans.

DIVISION OF CREDIT UNIONS

1. Amendments to chapter 208-418 WAC, fees charged to credit unions and related parties.
2. Amendments to chapter 208-436 WAC, relating to investment practices.
3. Amendments to chapter 208-440 WAC, commercial business activities.
4. Amendments to chapter 208-444 WAC, miscellaneous rules.
5. Chapter 208-464 WAC, repeal and adopt new rule relating to member business loans.
6. Amendments to chapter 208-472 WAC, relating to field of membership.
7. Amendments to chapter 208-480 WAC, real estate appraisals.

DIVISION OF SECURITIES

1. Amending WAC 460-28A-015 Advertisements, to clarify the time period for filing of sales and advertising literature and promotional material relating to registered offerings of securities.
2. Adoption of WAC 460-24A-110 Agency cross transactions, to adopt NASAA Uniform Rule 102(f)-1 Agency Cross Transaction, which was adopted pursuant to the model amendments to the investment advisory sections. The pro-

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posed rule will foster uniformity among the states and conform regulation of investment advisers with federal statutes and regulations.

3. Amendments to WAC 460-24A-220 Unethical business practices—Investment advisers and federal covered advisers, to adopt NASAA Uniform Rule 102 (a)(4)-1 Unethical Business Practices of Investment Advisers and Federal Covered Advisers as amended. The proposed rule will foster uniformity among the states and conform regulation of investment advisers with federal statutes and regulations.

4. Adoption of WAC 460-24A-145 Investment adviser brochure rule, to adopt in substance the NASAA Investment Adviser Brochure Rule. This rule is needed to fill a gap created by changes in federal law and its adoption will foster uniformity with other jurisdictions.

5. In accordance with the division's rules review plan adopted in accordance with Executive Order 97-02, the following rules may be reviewed which may result in amendment, repeal, or adoption of rules in the following chapters: Chapter 460-24A WAC, Investment advisers, chapter 460-80 WAC, Franchise registration, and chapter 460-82 WAC, Franchise brokers.

6. Possible amendments to WAC 460-44A-504 Small offering exemption, and possible adoption in chapter 460-21B WAC, Broker-dealers, of the NASAA statement of policy concerning the sale of securities on the premises of financial institutions.

WSR 99-04-023

NOTICE OF PUBLIC MEETINGS

EASTERN WASHINGTON UNIVERSITY

[Memorandum—January 22, 1999]

EASTERN WASHINGTON UNIVERSITY

BOARD OF TRUSTEES

1999 Meeting Schedule

Approved at October 23, 1998, Board of Trustees Meeting

*Revised December 4, 1998

Friday, January 22, **10:00 a.m.**, Pence Union Building, Banquet Room 265

Friday, February 26, **10:00 a.m.**, Pence Union Building, Banquet Room 265

Friday, April 2, **10:00 a.m.**, Spokane Center, Second Floor Mall

Friday, **May 21* 10:00 a.m.**, Pence Union Building, Banquet Room 265

Friday, June 25, **10:00 a.m.**, Pence Union Building, Banquet Room 265

Friday, July 23, **10:00 a.m.**, Pence Union Building, Banquet Room 265

Friday, September 24, **10:00 a.m.**, Pence Union Building, Banquet Room 265

Friday, October 22, **10:00 a.m.**, Spokane Center, Second Floor Mall

Friday, December 3, **10:00 a.m.**, Pence Union Building, Banquet Room 265

Board meetings are the fourth Friday of the month, with the exception of the combination of the March/April meeting and the November/December meeting; no meeting in August.

WSR 99-04-024

NOTICE OF PUBLIC MEETINGS

COMMUNITY COLLEGES OF SPOKANE

[Memorandum—January 20, 1999]

Due to a conflict in trustee schedules, the regular meeting of the board of trustees of Community Colleges of Spokane (Washington State Community College District #17) scheduled for February 16, 1999, at 8:30 a.m. has been changed to February 10, 1999. The time and location remains the same.

WSR 99-04-025

INTERPRETIVE OR POLICY STATEMENT

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

[Filed January 25, 1999, 9:00 a.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Billing Instruction.

Subject: Prescription drug program.

Effective Date: December 1998.

Document Description: This manual gives medical assistance providers billing instructions for the prescription drug program. Included are "important contacts," "program guidelines," "completing Pharmacy Statement Form 525-106," and various drug lists.

To receive a copy of the interpretive or policy statement, contact Pate King, Administrative Assistant, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45530, Olympia, WA 98504, phone (360) 586-0830, TDD (1-800) 848-5429, fax (360) 753-7315, e-mail kingpl@dshs.wa.gov.

January 22, 1999

Leslie Baldwin, Acting Section Head

Program Assistance Services Section

WSR 99-04-026

AGENDA

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

[Filed January 25, 1999, 9:03 a.m.]

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

SEMI-ANNUAL RULE-MAKING AGENDA

Shown below is the Department of Social and Health Services' Semi-Annual Rule-Making Agenda, by administration, for January 1, 1999, through June 30, 1999.

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There may be more rule-making activity, not on the agenda, as a result of the reviews being done in accordance with the Governor's Executive Order 97-02.

**DEPARTMENT OF SOCIAL AND HEALTH SERVICES
SEMI-ANNUAL RULE-MAKING AGENDA FOR 1/1/99 THROUGH 6/30/99**

AGING & ADULT SERVICES ADMINISTRATION

WAC Chapter or Section Number	Purpose of rule being developed or amended
388-76	Possible amendments to clarify certain sections of the AFH chapter.
388-97	Continue review of nursing home chapter as part of AASA/RCS regulatory review plan-mandated by the governor's executive order.
388-97-245 through 280	These sections, originally scheduled to be completed by December 31, 1997, are being further reviewed along with the entire chapter.
388-110-105 through 280	With the transfer of boarding homes to DSHS by E2SSB 6544, chapter 272, Laws of 1998, the contract rules for boarding homes, originally scheduled to be opened October 1997, have not been opened. They will be incorporated with the review of the boarding home regulations (chapter 388-78A WAC) in July of 1999.
388-15-900, 910, 920, 930 and 388-515-540	Being developed to provide guidance and standardize field operations and to notify stakeholders as to PACE program criteria.
388-15-650 through 662	To establish client and provider eligibility requirements, care levels, and payment rates for adult health services program.
Chapter 388-15 WAC, Various sections	Still being reviewed and amended to conform with regulatory improvement guidelines.
Chapter 388-17 WAC, All sections	Still being reviewed and amended to conform with regulatory improvement guidelines.
Chapter 388-96 WAC	Potential changes to nursing facility payment system due to legislative mandates.

CHILDREN'S ADMINISTRATION

WAC Chapter or Section Number	Purpose of rule being developed or amended
388-15-130	Social Services for families, children, and adults—Child protective services (CPS)—Authority.
388-15-131	CPS special requirements for Indian children.
388-15-132	CPS acceptance of reports—Eligibility.
388-15-134	CPS notification.
388-15-***	CPS - new section - rule to review and amend findings of abuse and neglect if appropriate, notification of findings, and appeal process.
388-15-150	Child foster care.
388-15-160	Adoption services.
388-15-170	General and seasonal day care services.
388-15-177	Subsidized child care payment - new section to establish maximum child care subsidy rates.
388-15-220	Homemaker services.
388-15-570	Family reconciliation services.
Chapter 388-24 WAC	AFDC foster care rules.
Chapter 388-70 WAC	Child welfare services (CWS) rules.
Chapter 388-73 WAC	Child care agencies - rules regarding minimum licensing and certification requirements.
Chapter 388-74 WAC	Child welfare services - rules regarding complaint resolution.
Chapter 388-150 WAC	Rules regarding minimum licensing requirements for child day care centers.
Chapter 388-151 WAC	Rules regarding minimum licensing requirements for school-age child care.

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Chapter 388-155 WAC	Rules regarding minimum licensing requirements for family child day care homes.
Chapter 388-160 WAC	Rules regarding minimum licensing requirements for overnight youth shelters.
388-330-010, 020, 030, 035, 040, 050 and 060	Rules relating to background inquiries.
388-60-005, 120, 130, 140, 150, 160, 170, 180, 190, 200, 210, 220, 230, 240, 250, 260	Rules relating to domestic violence perpetrator program standards.
440-44-001, 002, 010, 015, 025 and 026	Rules relating to fees (i.e. day care centers and mini-day care centers licensing fees; and family day care home licensing fees).
New sections	Indian child welfare program rules.

ECONOMIC SERVICES ADMINISTRATION

WAC Chapter or Section Number	Purpose of rule being developed or amended
388-***, Child support	To establish fines for failure to comply with certain Division of Child Support notices, liens, inquiries and subpoenas.
Chapter 388-412 WAC, Electronic benefit transfer	To include electronic benefit transfer as a method of delivering cash and food assistance benefits.
388-14-490 Child support	To remove exemptions from employer reporting of new hires and to add new method for such reporting.
388-478-0015 Cash assistance need standards	To update the cash assistance need standard to reflect the increase in cost of living.
388-***, Child support	To revise procedures for preparing and serving a support establishment notice.
388-11-315 Child support	To establish grounds for entry of a temporary support order pending a final order.
Chapter 388-310 WAC, WorkFirst	To update WorkFirst program rules.
388-14-450 Child support	To amend rule to allow a debt adjustment notice and hearing to any parent who receives child support services.
388-290 and related working connections child care program	To improve the integrity of the working connections child care program and to clarify and simplify rules per Executive Order 97-02.
388-478-0055 and related SSI state supplement	To adjust supplemental security income state supplement payments to meet federal and state laws.
388-444-0005, 0020, 0035, 0040 and 0045 Food assistance work programs	To correct and clarify requirements for food assistance work programs.
388-412-***, Food assistance program 388-418-*** and 388-470-***	To correctly reflect federal regulations for food assistance.
388-450-0185 Food assistance program	To clarify existing food stamp rule on dependent care disregard.
Chapter 388-222 WAC, Diversion assistance Chapter 388-436 WAC, Additional requirements, emergent need and consolidated emergency assistance program	To clarify rules, to modify technical requirements and to remove or substantially reduce agency's administration of the consolidated emergency assistance program.
Chapter 388-470 WAC, Resources	To provide more specific information on how resources affect assistance eligibility and to allow additional cash savings accounts.
388-450-0106, 388-450-0116, income allocation	To clarify and meet the standards for regulatory improvement cited in Executive Order 97-02.
388-450-0050 Community jobs—Income rules	To disregard 50% of the income from community jobs activity in calculating cash grant payments and to meet regulatory improvement standards.

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HEALTH AND REHABILITATIVE SERVICES ADMINISTRATION

WAC Chapter or Section Number	Purpose of rule being developed or amended
Chapter 275-25 WAC	Rules relating to county plan for mental health, developmental disabilities.
Chapter 275-26 WAC	Rules relating to community residential services and support.
Chapter 275-27 WAC	Rules relating to services for the Division of Developmental Disabilities.
Chapter 275-31 WAC	Rules relating to program options for the Division of Developmental Disabilities.
Chapter 275-38 WAC	Rules relating to ICF/MR program and reimbursement system.
Chapter 275-41 WAC	Rules relating to work programs for residents of residential habilitation centers in the Division of Developmental Disabilities.
Chapter 388-240 WAC, Alcohol/drug programs	Update rules for public assistance for how clients receive detoxification services and ADATSA services. Review outpatient limits.
Chapter 440-25 WAC, Administration of chemical dependency services	Update rules relating to planning, contracting, and provision of chemical dependency treatment and prevention services by and through counties.
Chapter 490-500 WAC	Rules relating to vocational rehabilitation and services for individuals with disabilities.

JUVENILE REHABILITATION ADMINISTRATION

WAC Chapter or Section Number	Purpose of rule being developed or amended
Chapter 275-47 WAC, Collection of costs of support, treatment, and confinement of juveniles under RCW 13.40.220	To review the chapter and make any necessary amendments based on requirements of the executive order.
WAC 275-37-020 Rated bed capacity	To review the WAC and make necessary amendments or repeal based on requirements of the executive order.

MANAGEMENT SERVICES ADMINISTRATION

WAC Chapter or Section Number	Purpose of rule being developed or amended
WAC 388-320-010 through 240	Review and amend rules relating to public disclosure.
WAC 388-08-410, 413, 437, 440, 464, 470, 515, 555, 575, and 388-320-460	Review and amend rules relating to adjudicative proceedings.

MEDICAL ASSISTANCE ADMINISTRATION

WAC Chapter or Section Number	Purpose of rule being developed or amended
Chapter 388-86 WAC	To comply with the Regulatory Improvement criteria of the Governor's Executive Order.
Chapter 388-87 WAC	To comply with the Regulatory Improvement criteria of the Governor's Executive Order.
Chapter 388-501 WAC	To comply with the Regulatory Improvement criteria of the Governor's Executive Order.
Chapter 388-505 WAC	To comply with the Regulatory Improvement criteria of the Governor's Executive Order.
Chapter 388-511 WAC	To comply with the Regulatory Improvement criteria of the Governor's Executive Order.
Chapter 388-512 WAC	To comply with the Regulatory Improvement criteria of the Governor's Executive Order.
Chapter 388-533 WAC	To comply with the Regulatory Improvement criteria of the Governor's Executive Order.
Chapter 388-538 WAC	To comply with the Regulatory Improvement criteria of the Governor's Executive Order.
Chapter 388-552 WAC	Rules are being developed to outline eligibility requirements, requirements for providers, covered items and services, and reimbursement methodology.

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Chapter 388-xxx WAC, Infusion, parenteral, enteral therapy	To establish in rule MAA policy.
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Note: This agenda is subject to change based on statutory requirements and priorities resulting from the 1999 legislative session.

Marie Myerchin-Redifer
Rules and Policies Assistance Unit

WSR 99-04-027
EXECUTIVE ORDER
OFFICE OF THE GOVERNOR
[99-01—January 20, 1999]

SUPERSEDING EXECUTIVE ORDER 90-05
AND
RE-ESTABLISHING THE GOVERNOR'S COUNCIL OF ECONOMIC ADVISORS

WHEREAS, it is beneficial to the state's interest to promote knowledge and understanding of state and local economic conditions and outlook.

WHEREAS, sound financial management requires a clear understanding and analysis of national and regional factors affecting the state's economy.

WHEREAS, the Governor's Council of Economic Advisors has provided advice to the Governor on a broad range of economic and fiscal matters that are vital to the state's financial well-being.

WHEREAS, re-establishment of the council will ensure its continued and effective operation.

NOW, THEREFORE, I, Gary Locke, Governor of the State of Washington, by virtue of the power vested in me, do hereby reaffirm the need for and establishment of the Governor's Council of Economic Advisors, and direct the following:

1. Executive Order 90-05 is hereby rescinded.
2. The Governor's Council of Economic Advisors is hereby re-established as an advisory council, formed to make recommendations to the Governor. The council is not a policy or rule-making body, or committee thereof, and is not empowered to take action on behalf of the Governor.
3. The council shall be appointed by, and serve at the pleasure of, the Governor. The Director of Financial Management shall periodically review the composition and structure of the council and, after consultation with the Departments of Revenue; Community, Trade, and Economic Development; Employment Security; and Agriculture, as well as the Economic and Revenue Forecast Council, recommend changes to the Governor.
4. Members officially appointed to and serving on the council on the date of this executive order shall continue service on the new council until they are re-appointed or replaced by the Governor. Members appointed or re-appointed after the date of this executive order shall serve at the pleasure of the Governor.

5. In making appointments and re-appointments to the council, the Governor shall consider individuals who represent major economic sectors of the state and have knowledge of timely and significant economic issues.
6. The council shall advise the Governor on state and local economic conditions and outlook, including national and regional developments affecting the state.
7. The council shall analyze general state economic conditions and periodically review and provide advice concerning special economic developments affecting major sectors of the state's economy.
8. The council shall meet at least quarterly so that timely advice can be provided prior to the adoption of the quarterly official state economic and revenue forecast.
9. Members appointed to the council and other attendees at council meetings shall respect the proprietary nature of certain information provided by members by not disclosing such information to other parties, within the bounds of applicable law.
10. The Office of Financial Management (OFM) shall provide administrative support to the council and shall coordinate staff support with other state agencies.
11. The Departments of Revenue; Employment Security; and Community, Trade, and Economic Development shall provide the council with additional data and information regarding general and special economic topics.
12. This executive order shall take effect immediately.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the State of Washington to be affixed at Olympia this 20th day of January A.D., Nineteen hundred and ninety-nine.

Gary Locke

Governor of Washington

BY THE GOVERNOR:

Tracy A. Guerin

Deputy Secretary of State

WSR 99-04-030
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
GENERAL ADMINISTRATION
(State Capitol Committee)
[Memorandum—January 21, 1999]

Please record the following State Capitol Committee meeting date, time and location in the Washington State Register: Thursday, March 25, 1999.

The meeting is being held in the Legislative Building, House Rules Room, from 10:00 a.m. to 11:30 a.m.

If you have any questions, you may contact (360) 664-9212.

MISC.

WSR 99-04-032
POLICY STATEMENT
DEPARTMENT OF ECOLOGY
 [Filed January 26, 1999, 2:06 p.m.]

POLICY STATEMENT

Purpose: In order to comply with RCW 34.05.230(4) of the Administrative Procedure Act, the Department of Ecology submits the following:

Document Title: Policy for Implementing the Consolidation of Rights for Exempt Ground Water Withdrawals.

Subject: The evaluation of changes or transfers to water rights.

Document Description: This document describes the generally applicable policies ecology will use when evaluating applications to change or transfer water rights.

Effective Date: January 8, 1999.

To receive a copy of the policy statement contact Fred Rajala, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6634, fax (360) 407-6634, TDD (360) 407-6006, e-mail fraj461@ecy.wa.gov.

January 20, 1999

Keith E. Phillips, Program Manager
 Water Resources Program

WSR 99-04-033
POLICY STATEMENT
DEPARTMENT OF ECOLOGY
 [Filed January 26, 1999, 2:08 p.m.]

POLICY STATEMENT

Purpose: In order to comply with RCW 34.05.230(4) of the Administrative Procedure Act, the Department of Ecology submits the following:

Document Title: Policy for Implementing the Consolidation of Rights for Exempt Ground Water Withdrawals.

Subject: The consolidation of rights for exempt ground water withdrawals.

Document Description: This document describes the procedures ecology will use to assist ground water right certificate and permit holders seeking to consolidate that right with a right or rights established under the ground water exemption.

Effective Date: January 11, 1999.

To receive a copy of the policy statement contact Fred Rajala, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6634, fax (360) 407-6634, TDD (360) 407-6006, e-mail fraj461@ecy.wa.gov.

January 7, 1999

Keith E. Phillips, Program Manager
 Water Resources Program

WSR 99-04-034
DEPARTMENT OF ECOLOGY
 [Filed January 26, 1999, 2:10 p.m.]

The Department of Ecology, in compliance with Executive Order 97-02, hereby gives notice of the opportunity to comment¹ on the following rules: Chapter 173-325 WAC, Low-level radioactive waste disposal and chapter 173-326 WAC, Commercial low-level radioactive waste disposal-site use permits.

¹ Comments received are for the purpose of this rule review and will not be considered a petition under RCW 34.05.330.

All comments must be received, in writing, by March 17, 1999 and addressed to: Jerry Thielen, Agency Rules Coordinator, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, fax (360) 407-6989, e-mail jthi461@ecy.wa.gov.

Comments should specifically address the following elements of the rule:

NEED

- Is this rule necessary to comply with statutes that authorize it?
- Is this rule obsolete, duplicative, or ambiguous to a degree that warrants repeal or revision?
- Have laws or circumstances changed so that the rule should be amended or repealed?
- Is the rule necessary to protect or safeguard the health, welfare, or safety of Washington's citizens?

EFFECTIVENESS AND EFFICIENCY

- Is this rule providing results that it was originally designed to achieve in a reasonable manner?
- Are there regulatory alternatives or new technologies that could more effectively or efficiently achieve the same objectives?

CLARITY

- Is this rule written and organized in a clear and concise manner so that it can be readily understood by those to whom it applies?

INTENT AND STATUTORY AUTHORITY

- Is this rule consistent with the legislative intent of the statutes that authorize it?
- Is this rule based upon sufficient statutory authority?
- Is there a need to develop a more specific legislative authorization in order to protect the health, safety, and welfare of Washington's citizens?

COORDINATION

- Could additional consultation and coordination with other governmental jurisdictions and state agencies with similar regulatory authority eliminate or reduce duplication and inconsistency?

COST

- Have qualitative and quantitative benefits of the rule been considered to relation to its costs?

FAIRNESS

- Does this rule result in equitable treatment of those required to comply with it?
- Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
- Should it be strengthened to provide additional protection?

WSR 99-04-035
NOTICE OF PUBLIC MEETINGS
NOXIOUS WEED CONTROL BOARD

[Memorandum—January 26, 1999]

The Washington State Noxious Weed Control Board 1999 meetings will be held as follows:

March 16, 1999
 8:30 a.m. to 5:00 p.m.
 The Enzian Inn
 590 Highway 2
 Leavenworth, WA

May 18, 1999
 8:00 a.m. to 5:00 p.m.
 WSU Cooperative Extension
 1000 North Forest
 Bellingham, WA

July 20, 1999
 8:30 a.m. to 5:00 p.m.
 Eatonville Community Center
 305 Center Street
 Eatonville, WA

September 21, 1999
 8:30 a.m. to 5:00 p.m.
 PUD #1 of Klickitat County
 1313 South Columbus Avenue
 Goldendale, WA

November 16, 1999
 8:30 a.m. to 5:00 p.m.
 Mt. Baker-Snoqualmie National Forest
 42404 S.E. North Bend Way
 North Bend, WA

The public is welcome to attend all meetings. Contact Lisa Lantz, Executive Secretary, Washington State Noxious Weed Control Board, (253) 872-2972, if you have any questions.

WSR 99-04-039
INTERPRETIVE STATEMENT
DEPARTMENT OF
FINANCIAL INSTITUTIONS

(Securities Division)

[Filed January 27, 1999, 9:55 a.m.]

Subject: Publication of Interpretive Statement-21 - This interpretive statement provides guidelines to assist registered investment advisers in avoiding misleading inferences when using past performance figures and model performance results in communications with clients and potential clients. Misleading inferences under such circumstances may constitute violations of WAC 460-24A-100 (1)(e) and RCW 21.20.020 of the Securities Act.

To receive a copy of the interpretive or policy statement contact Kristina L. Kneip, Department of Financial Institu-

tions, Securities Division, P.O. Box 9033, Olympia, WA 98504-9033, phone (360) 902-8823, fax (360) 704-7023.

Kristina L. Kneip
 Securities Examiner

WSR 99-04-040
NOTICE OF PUBLIC MEETINGS
COUNTY ROAD
ADMINISTRATION BOARD

[Memorandum—January 25, 1999]

MEETING **April 8, 1999**
NOTICE: County Road Administration Board
 2404 Chandler Court S.W., Suite 240
 Olympia, WA 98504-0913
 1:00 p.m. to 5:00 p.m.

April 9, 1999
 County Road Administration Board
 2404 Chandler Court S.W., Suite 240
 Olympia, WA 98504-0913
 9:00 a.m. to noon

PUBLIC **April 8, 1999**
HEARING: County Road Administration Board
 2404 Chandler Court S.W., Suite 240
 Olympia, WA 98504-0913
 3:00 p.m.

Individuals requiring reasonable accommodation may request written materials in alternative formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation, by contacting Karen Pendleton at (360) 753-5989, hearing and speech impaired persons can call 1-800-833-6384.

If you have questions, please contact (360) 753-5989.

WSR 99-04-041
NOTICE OF PUBLIC MEETINGS
COMMUNITY ECONOMIC
REVITALIZATION BOARD

[Memorandum—January 25, 1999]

Special Meeting Announcement

GROUP AFFECTED: Community Economic Revitalization Board (CERB).

LOCATION: Teleconference, Community, Trade and Economic Development, 906 Columbia Street S.W., Olympia, WA 98504-8300.

DATE: January 29, 1999.

TIME: Beginning at 10:00 a.m.

If you have any questions or need further clarification, please call (360) 586-0657.

WSR 99-04-043
RULES COORDINATOR
BOARD OF
INDUSTRIAL INSURANCE APPEALS
 [Filed January 28, 1999, 9:36 a.m.]

It has recently been brought to my attention that the rules coordinator for the Board of Industrial Insurance Appeals is still listed as Patricia B. Latsch, Executive Secretary. Since Ms. Latsch is no longer serving in that capacity, we would like to request that the designee for this agency be changed to reflect the following: David E. Threedy, Executive Secretary, Board of Industrial Insurance Appeals, P.O. Box 42401, Olympia, WA 98504-2401, (360) 753-9646, e-mail threedy@biia.wa.gov.

David E. Threedy
 Executive Secretary

WSR 99-04-044
NOTICE OF PUBLIC MEETINGS
OLYMPIC COLLEGE
 [Memorandum—January 27, 1999]

The Olympic College regular board of trustees meeting scheduled for February 23, 1999, at 7:30 p.m. is cancelled. The trustees will meet on February 16, 1999, at 7:30 p.m. at

Olympic College, 1600 Chester Avenue, College Service Center, 5th Floor, Board Room. This change has been provided to local media and the Olympic College community.

Olympic College, Community College District Number 3, meets the fourth Tuesday of every month at 7:30 p.m. January through June (except February) and September through November. If you have any questions regarding this change, feel free to call (360) 475-7103 between 8:00 a.m. to 4:30 p.m., Monday through Friday.

WSR 99-04-045
NOTICE OF PUBLIC MEETINGS
GROWTH MANAGEMENT
HEARINGS BOARDS
 [Memorandum—January 26, 1999]

Please publish this CORRECTED NOTICE of our SPECIAL MEETING in the February 17, 1999, edition of the Register:

CORRECTION: The Growth Management Hearings Boards' semi-annual joint meeting will take place on Thursday, February 25, 1999, from 8:30 a.m. to 11:30 a.m., in Cavanaugh's Room No. 201, 2300 Evergreen Park Drive, Olympia, WA. This is a meeting of the Central Puget Sound, Eastern Washington, and Western Washington Growth Management Hearings Boards.

WSR 98-04-047
AGENDA
DEPARTMENT OF ECOLOGY
 [Filed January 28, 1999, 11:40 a.m.]

Department of Ecology
Semiannual Rule Agenda¹
January 31, 1999 - July 31, 1999

WAC Chapter	Chapter Title	Contact Person	Intended CR-101 Filing Date	Approximate Adoption Date	Scope of Changes/ Sections to Amend
AIR QUALITY					
173-400 AO#n/a 7/98	General Regulation for Air Pollution	Elena Guilfoil (360) 407-6855 egui461@ecy.wa.gov	(Expedited) CR-102 March 1999	June 1999	Update dry cleaner alternative to MACT correct references, incorporate new federal requirements; clarify SIP related applicability in -110; add explicit reference to P2 in BACT/LAER provisions
173-400 AO#98-27 7/98	General Regulation for Air Pollution	Robert Huber (360) 407-6776 rhub461@ecy.wa.gov	(Expedited) CR-102 January 1999	April 1999	Update NESHAP and NSPS delegations; (including medical waste combustors) revise definition of VOCs
173-400 AO#n/a 7/98	General Regulation for Air Pollution	Elena Guilfoil (360) 407-6855 egui461@ecy.wa.gov	February 1999	July 1999	PSD changes for complete delegation or program approval; consider revisions to state BART requirements; clarify "basic review fees" in -116

MISC.

173-XXX AO#n/a 7/98	Fee Rule	Roger Dovel (360) 407-6847 rdov461@ecy.wa.gov	May 1999	June 2000	Omnibus air fee rule – consolidate fee provisions, including source registration fees, in one place; add inflation adjuster where appropriate
173-406 AO#n/a 1/98	Acid Rain Regulation	Tom Todd (360) 407-7528 ttod461@ecy.wa.gov	February 1999	August 1999	Revisions to conform to EPA requirements. Potential to handle as expedited rule.
173-415 & 173-481 AO#98-09 7/96	Primary Aluminum Plants, Ambient Fluoride Standard	Carol Piening (360) 407-6858 cpie461@ecy.wa.gov	(Underway) May 1998	July 1999	Determine if MACT equates to RACT; address fluoride monitoring requirement
173-420 AO#n/a 7/96	Conformity of Transportation Activities to Air Quality Implementation Plan	Paul Carr (360) 407-6863 pcar461@ecy.wa.gov	(Expedited) CR-102 March 1999	July 1999	Revisions to conform to EPA requirements
173-425 AO#97-39 7/97	Open Burning	Bruce Smith (360) 407-6899 brsm461@ecy.wa.gov	(Underway) October 1997	February 1999	Incorporate state statutory changes; streamline program
173-433 AO#n/a 7/97	Solid Fuel Burning Devices	Peter Lyon (360) 407-7530 plyo461@ecy.wa.gov	(Expedited) CR-102 June 1999	October 1999	Incorporate lower curtailment trigger; clarify definitions so rule does not apply to HFBs
173-434, 7/96 173-400, 7/96 173-405, 7/97 173-410 7/97 AO#n/a	Emissions Standards for Solid Waste Incinerators; General regulation for air pollution sources; Kraft Pulping Mills; Sulfite Pulping Mills	Peter Lyon (360) 407-7530 plyo461@ecy.wa.gov	January 1999	September 1999	Hog Fuel Boiler RACT; define terms related to wood derived fuels; reorganize state incinerator rule. Committee has been meeting for past year, in part to scope the rule changes
173-460, 173-400 AO#n/a 1/98	Controls for New Sources of Toxic Air Pollution, General Regulation for Air Pollution	Steve Cross (360) 407-6875 stcr461@ecy.wa.gov	January 1999	August 1999	Incorporate de minimus levels; Tier 2 light; consolidate NSR processes from 173-400 and 173-460
173-491 ¹ AO#n/a 1/99	Emission Standards and Controls for Sources Emitting Gasoline Vapors	Dan Johnson (360) 407-6872 dajo461@ecy.wa.gov	July 1999	January 2000	Simplify tanker truck testing requirements
HAZARDOUS WASTE AND TOXICS REDUCTION					
173-303 ¹ AO#n/a 1/99	Dangerous Waste Regulations	Patricia Hervieux (360) 407-6756 pher461@ecy.wa.gov	April 1999	April 2000	Scope of changes and sections to amend – Several federal rules will be incorporated into the Dangerous Waste Regulations either in their entirety or in part. These include, among others, the used oil rules, the Military Munitions Rule, the Expanded Public Participation Rule, Subpart CC Air Emission Standards, and Land Disposal Restriction rules. There will also be some changes to state-only requirements. These will include technical corrections and improvements to the transportation requirements. There will also be some change to implement the recommendations of the November 1998 Fertilizer Study.

MISC.

SHORELANDS AND ENVIRONMENTAL ASSISTANCE					
173-25 AO#95-17 7/97	Shoreline Management Act – streams and rivers, lakes, wetlands constituting shorelines of the state (SMA)	Peter Skowlund (360) 407-6522 psko461@ecy.wa.gov	(Underway) October 1995	April 1999	To replace 173-18, 173-20, 173-22
173-26 AO#95-17 Parts 3&4 1/98	Shoreline Master Program Guidelines	Peter Skowlund (360) 407-6522 psko461@ecy.wa.gov	(Underway) October 1995	July 1999	Shoreline Management Act/Growth Management Act integration; update standards state-wide based on improvements in best available science and shoreline management practice; salmon recovery and habitat protection.
173-204 AO#98-21 7/95	Sediment Management Standards (Human Health Sediment Criteria)	Brett Betts (360) 407-6914 bbet461@ecy.wa.gov	(Underway) August 1998	June 1999	Triennial rule review per federal/state requirement. Components: Human health criteria and fresh-water standards.
173-802 AO#n/a 7/97	SEPA Procedures	Marvin Vialle (360) 407-6928 mvia461@ecy.wa.gov	February 1999	December 1999	Revise ecology's own SEPA procedures to reflect current and proposed practices
197-11 AO#97-02 7/97	SEPA Rules	Barbara Ritchie (360) 407-6922 brit461@ecy.wa.gov	(Underway) January 1997	December 1999	Revise categorical exemptions allowed under the State Environmental Policy Act
197-11 AO#95-16 7/97	SEPA Rules	Barbara Ritchie (360) 407-6922 brit461@ecy.wa.gov	(Underway) December 1995	December 1999	Finish revising environmental checklist (in response to ESHB 1724 and other changes)
173-700 ¹ AO#98-26 1/99	Compensatory Wetland Mitigation Banks	Judy Geier (360) 407-7257 jgei461@ecy.wa.gov	January 1999	January 2000	To establish a state-wide certification process for compensatory wetland mitigation banks. In addition, the rule will outline procedures for the operation, monitoring, and implementation of wetland mitigation banks.
SOLID WASTE AND FINANCIAL ASSISTANCE					
173-304 AO#n/a 7/97	Minimum Functional Standards for Solid Waste Handling	Brian Farmer (509) 456-6386 bfar461@ecy.wa.gov	February 1999	July 2000	Update approaches to non-municipal solid waste management. Respond to state legislation aimed at removing impediments to recycling. Executive order/regulatory improvement
173-321 AO#97-09 7/97	Public Participation Grants	Trish Akana (360) 407-7230 taka461@ecy.wa.gov	(Underway) May 1997	September 1999	Implement \$60,000 grant program. Recommendation from the MTCA Policy Advisory Committee (see 173-340)
173-322 AO#97-09 7/97	Remedial Action Grants	Trish Akana (360) 407-7230 taka461@ecy.wa.gov	(Underway) May 1997	September 1999	Implement brownfields grant program. Recommendation from the MTCA Policy Advisory Committee (see 173-340)

MISC.

TOXICS CLEANUP					
173-340 AO#97-09 7/97	Model Toxic Control Act Cleanup Regulation (MTCA)	Trish Akana (360) 407-7230 taka461@ecy.wa.gov	(Underway) May 1997	September 1999	Site specific assessment, petroleum cleanup method, ecological based cleanup standards, remedy selections, cleanup action laws, areawide contamination & brownfields, public participation in cleanup, and quality assurance. To implement recommendations from the MTCA Policy Advisory Committee (a 22-member legislative task force charged with making statute and rule changes by December 1, 1996. Regulatory improvement.
WATER QUALITY					
173-201A AO#n/a 7/98	Surface Water Quality Standards for the State of Washington	Mark Hicks (360) 407-6477 mhic461@ecy.wa.gov	January 1999	November 1999	A. Develop regulatory language to guide the implementation of a water quality antidegradation policy. This would focus on protecting water quality standards, implementing technology-based pollution control requirements, and ensuring degradation that is allowed is in the overriding public interest. It would also include provisions to set aside waters constituting an outstanding national resource from all degradation. B. Ecology would also be looking at revising the way beneficial uses are assigned for protection to waterbodies under the water quality standards. The change would provide a more direct linkage between the beneficial uses that occur in waterbodies to those listed for protection in those waters in the water quality standards regulation.
173-202 AO#98-19 1/98	Washington Forest Practice Rules and Regulations to Protect Water Quality SUPPLEMENTAL	Doug Rushton (360) 407-6180 drus461@ecy.wa.gov	(Underway) August 1998	July 2000	Forestry module

MISC.

173-202 ¹ AO#98-19 1/99	Washington Forest Practices Rules and Regulations to Protect Water Quality	Doug Rushton (360) 407-6180 drus461@ecy.wa.gov	(Underway) August 1998	September 2000	Major revision to the Forest Practices Rules, portions affecting water quality are adopted by reference. The proposed changes would provide better protection for resources, particularly those associated with water, and would also address Endangered Species Act and Clean Water Act concerns.
173-230 AO#98-18 7/98	Wastewater Operator Certification	Myra Barker (360) 407-6499 mbar461@ecy.wa.gov	(Underway) September 1998	May 1999	Amend rule to implement advisory committee recommendations to streamline the process and to be able to use current exams-POTWs/Operators.
173-224 ¹ AO#n/a 1/99	Wastewater Discharge Permit Fee Rule Amendment	Beverly Poston (360) 407-6425 bpos461@ecy.wa.gov	July 1999	February 2000	To keep ecology in compliance with RCW 90.48.465 by recovering the program funding level appropriated by the legislature.
WATER RESOURCES					
173-153 AO#98-11 1/98	Water Rights Transfers by Water Conservancy Boards	Peggy Clifford (360) 407-7262 pcli461@ecy.wa.gov	(Underway) July 1998	July 1999	To establish criteria for establishment of conservancy districts, training of district commissioners, and transfer procedures and criteria
173-517 AO#95-03 7/97	Quilcene Water Resource Program Rules	Thom Lufkin (360) 407-6631 tlhw461@ecy.wa.gov	(Underway) July 1995	September 1999	Recommendations of the Dungeness-Quilcene Regional Water Resources Plan and the Chelan Agreement.
173-518 AO#95-03 7/95	Dungeness Water Resource Program Rules – WRIA 18	Cynthia Nelson (360) 407-0276 cyne461@ecy.wa.gov	(Underway) July 1995	July 1999	Water Resources Management Program for the Sequim-Dungeness watershed. Instream flows, water conservation
173-548 AO#94-32 7/94	Water Resource Program for Methow Basin —WRIA 48	John Monahan (509) 457-7112 jmon461@ecy.wa.gov	(Underway) June 1995 Refiled June 1998	April 1999	To implement pilot regional plan, including establishment of a water bank. Establish guidelines and procedures for the management and preservation of surface and ground water in the Methow River Basin. Recommendations by local water planning committee and ground water advisory committee.
173-532 ¹ AO#98-23 1/99	Water Resources Management of the Walla Walla Basin—WRIA 32	Thom Lufkin (360) 407-6631 tlhw461@ecy.wa.gov	(Underway) September 1998	Uncertain	To allow certain change applications to be processed ahead of applications with a senior priority date, if the change applications meet certain criteria.

¹ Ecology WAC chapters that represent those rules new to this iteration of the semiannual rule agenda.

WSR 99-04-049
DEPARTMENT OF HEALTH

[Filed January 28, 1999, 1:13 p.m.]

TRANSFER OF CHAPTER 245-02 WAC TO CHAPTER 246-25 WAC

RCW 43.72.310 authorizes the transfer of antitrust immunity and competitive oversight from the Health Care Policy Board to the Department of Health. Amendments to RCW 43.72.310 during the 1997 legislative session transferred the authority to implement and enforce antitrust immunity and competitive oversight regulations from the Health Care Policy Board to the Department of Health.

Please transfer the rules relating to antitrust immunity and competitive oversight which were previously under the authority of the Health Care Policy Board (no longer in existence) to a new Department of Health, chapter 246-25 WAC.

Kris Van Gorkom
 Deputy Secretary

WSR 99-04-061

AGENDA

EMPLOYMENT SECURITY DEPARTMENT

[Filed January 29, 1999, 4:21 p.m.]

Employment Security Department
Rule-Making Agenda: January 29, 1999

Subject: Registration of Political Subdivisions.

Division or Office Initiating Rule-Making Activity:
 Unemployment Insurance Division.

WAC Sections Affected: WAC 192-12-035.

Description of Intended Rule-Making Activity: Amend WAC 192-12-035 to state the agency does not need authorization to assign taxable method of payment if the employing unit fails to provide a written response to the agency. In addition, many sections of the WAC are obsolete and there is duplication with RCW 50.44.030.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:
 Preproposal Notice of Intent (CR-101) - February 1999
 Proposed Rule-Making (CR-102) - March 1999
 Public Hearing - April 1999
 Order Rule Adoption (CR-103) - May 1999
 Effective Date - June 1999

Subject: Records Clarification.

Division or Office Initiating Rule-Making Activity:
 Unemployment Insurance Division.

WAC Sections Affected: WAC 192-12-050.

Description of Intended Rule-Making Activity: Amend WAC 192-12-050 to streamline and clarify records kept by the employing unit for UI purposes. Includes information contained in the records and the length of time records are to be retained by the employer.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:
 Preproposal Notice of Intent (CR-101) - February 1999
 Proposed Rule-Making (CR-102) - March 1999
 Public Hearing - April 1999
 Order Rule Adoption (CR-103) - May 1999
 Effective Date - June 1999

Subject: Predecessor/Successor Transfers Through Intermediaries.

Division or Office Initiating Rule-Making Activity:
 Unemployment Insurance Division.

WAC Sections Affected: WAC 192-12-074.

Description of Intended Rule-Making Activity: Amend WAC 192-12-074 to remove sections that are duplicative and in part, obsolete.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:
 Preproposal Notice of Intent (CR-101) - February 1999
 Proposed Rule-Making (CR-102) - March 1999
 Public Hearing - April 1999
 Order Rule Adoption (CR-103) - May 1999
 Effective Date - June 1999

Subject: Delinquent Predecessor Contributions.

Division or Office Initiating Rule-Making Activity:
 Unemployment Insurance Division.

WAC Sections Affected: WAC 192-12-076.

Description of Intended Rule-Making Activity: Amend WAC 192-12-076 to remove sections that are obsolete.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:
 Preproposal Notice of Intent (CR-101) - February 1999
 Proposed Rule-Making (CR-102) - March 1999
 Public Hearing - April 1999
 Order Rule Adoption (CR-103) - May 1999
 Effective Date - June 1999

Subject: Workers to Procure Social Security Account Numbers.

Division or Office Initiating Rule-Making Activity:
 Unemployment Insurance Division.

WAC Sections Affected: WAC 192-12-080.

Description of Intended Rule-Making Activity: Amend WAC 192-12-080 to streamline and clarify language requiring employees to have Social Security numbers and requiring employers to refer to the Social Security number in reports to the agency.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:
 Preproposal Notice of Intent (CR-101) - February 1999
 Proposed Rule-Making (CR-102) - March 1999
 Public Hearing - April 1999
 Order Rule Adoption (CR-103) - May 1999
 Effective Date - June 1999

Subject: Employer Elections - More Than One State.

MISC.

Division or Office Initiating Rule-Making Activity:
Unemployment Insurance Division.

WAC Sections Affected: WAC 192-12-090.

Description of Intended Rule-Making Activity: Amend WAC 192-12-090 to streamline and clarify language to comply with statutory changes.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:

Preproposal Notice of Intent (CR-101) - February 1999

Proposed Rule-Making (CR-102) - March 1999

Public Hearing - April 1999

Order Rule Adoption (CR-103) - May 1999

Effective Date - June 1999

Subject: Interpretive Regulations - Employer Reports.

Division or Office Initiating Rule-Making Activity:
Unemployment Insurance Division.

WAC Sections Affected: WAC 192-16-001.

Description of Intended Rule-Making Activity: Amend WAC 192-16-001 to delete obsolete language and rewrite for better understanding.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:

Preproposal Notice of Intent (CR-101) - February 1999

Proposed Rule-Making (CR-102) - March 1999

Public Hearing - April 1999

Order Rule Adoption (CR-103) - May 1999

Effective Date - June 1999

Subject: Employer Reports - Further Defining Hours Worked - RCW 50.12.070.

Division or Office Initiating Rule-Making Activity:
Unemployment Insurance Division.

WAC Sections Affected: WAC 192-16-002.

Description of Intended Rule-Making Activity: Amend WAC 192-16-002 to comply with statutory changes and new rules. Also intend to rewrite language for better understanding.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:

Preproposal Notice of Intent (CR-101) - February 1999

Proposed Rule-Making (CR-102) - March 1999

Public Hearing - April 1999

Order Rule Adoption (CR-103) - May 1999

Effective Date - June 1999

Subject: Tele-Center Rules - Filing Methods.

Division or Office Initiating Rule-Making Activity:
Unemployment Insurance Division.

WAC Sections Affected: WAC 192-04-060, 192-04-170, 192-04-190, 192-12-330, and 192-15-150.

Description of Intended Rule-Making Activity: Amend tele-center rules to describe methods claimants must use to file appeals and communicate with the agency.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:

Preproposal Notice of Intent (CR-101) - February 1999

Proposed Rule-Making (CR-102) - March 1999

Public Hearing - April 1999

Order Rule Adoption (CR-103) - May 1999

Effective Date - June 1999

Subject: Tele-Center Rules - Applying for UI Benefits.

Division or Office Initiating Rule-Making Activity:
Unemployment Insurance Division.

WAC Sections Affected: New sections in chapter 192-10 WAC.

Description of Intended Rule-Making Activity: Adopt rules describing methods claimants are to use when applying for UI benefits by telephone, verifying claims and reopening claims. Definitions are also listed.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:

Preproposal Notice of Intent (CR-101) - February 1999

Proposed Rule-Making (CR-102) - March 1999

Public Hearing - April 1999

Order Rule Adoption (CR-103) - May 1999

Effective Date - June 1999

Subject: Tele-Center Rules - Claimant Notices.

Division or Office Initiating Rule-Making Activity:
Unemployment Insurance Division.

WAC Sections Affected: New sections in chapter 192-120 WAC.

Description of Intended Rule-Making Activity: Adopt new rules describing how the agency is to provide notice to claimants regarding information and assistance.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:

Preproposal Notice of Intent (CR-101) - February 1999

Proposed Rule-Making (CR-102) - March 1999

Public Hearing - April 1999

Order Rule Adoption (CR-103) - May 1999

Effective Date - June 1999

Subject: Tele-Center Rules - Reporting Requirements to Receive Benefits.

Division or Office Initiating Rule-Making Activity:
Unemployment Insurance Division.

WAC Sections Affected: New sections in chapter 192-140 WAC.

Description of Intended Rule-Making Activity: Adopt new rules describing reporting procedures for claimants to receive weekly benefits. Personal identification required.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:

Preproposal Notice of Intent (CR-101) - February 1999

Proposed Rule-Making (CR-102) - March 1999
 Public Hearing - April 1999
 Order Rule Adoption (CR-103) - May 1999
 Effective Date - June 1999

Subject: Job Separations.

Division or Office Initiating Rule-Making Activity:
 Unemployment Insurance Division.

WAC Sections Affected: New sections in chapter
 192-150 WAC.

Description of Intended Rule-Making Activity: Adopt
 new rules describing how claimants qualify for benefits after
 leaving work for marital or domestic reasons.

Expected Public Participation: Input from interested
 parties will be solicited during the preproposal comment
 period.

Tentative Schedule of Rule-Making Activity:

Preproposal Notice of Intent (CR-101) - February 1999

Proposed Rule-Making (CR-102) - March 1999

Public Hearing - April 1999

Order Rule Adoption (CR-103) - May 1999

Effective Date - June 1999

Subject: School or Training.

Division or Office Initiating Rule-Making Activity:
 Unemployment Insurance Division.

WAC Sections Affected: New sections in chapter
 192-200 WAC.

Description of Intended Rule-Making Activity: Adopt
 new rules claimants are to comply with to obtain approval for
 training.

Expected Public Participation: Input from interested
 parties will be solicited during the preproposal comment
 period.

Tentative Schedule of Rule-Making Activity:

Preproposal Notice of Intent (CR-101) - February 1999

Proposed Rule-Making (CR-102) - March 1999

Public Hearing - April 1999

Order Rule Adoption (CR-103) - May 1999

Effective Date - June 1999

Subject: Special Category Occupations (School
 Employees).

Division or Office Initiating Rule-Making Activity:
 Unemployment Insurance Division.

WAC Sections Affected: New sections in chapter
 192-210 WAC.

Description of Intended Rule-Making Activity: Adopt
 new rules describing definitions, terms and conditions. Cri-
 teria used to define academic year and the test for reasonable
 assurance employment exists.

Expected Public Participation: Input from interested
 parties will be solicited during the preproposal comment
 period.

Tentative Schedule of Rule-Making Activity:

Preproposal Notice of Intent (CR-101) - February 1999

Proposed Rule-Making (CR-102) - March 1999

Public Hearing - April 1999

Order Rule Adoption (CR-103) - May 1999

Effective Date - June 1999

Subject: Availability to Accept Work (Pregnancy/Dis-
 ability Rules).

Division or Office Initiating Rule-Making Activity:
 Unemployment Insurance Division.

WAC Sections Affected: New sections in chapter
 192-170 WAC.

Description of Intended Rule-Making Activity: Adopt
 new rules describing factors to be considered when determin-
 ing availability for suitable work.

Expected Public Participation: Input from interested
 parties will be solicited during the preproposal comment
 period.

Tentative Schedule of Rule-Making Activity: To be
 determined.

WSR 99-04-062

NOTICE OF PUBLIC MEETINGS UNIVERSITY OF WASHINGTON

[Memorandum—January 28, 1999]

In accordance with RCW 42.30.075, the University of
 Washington is providing the following list of governing bod-
 ies of schools, colleges, departments and programs at the uni-
 versity that maintain regular meeting schedules at the Univer-
 sity of Washington Public Records Office.

College of Forest Resources
 School of Nursing
 Materials Science and Engineering
 Computing and Software Systems
 Medical Education
 Music
 School of Fisheries
 Medical History and Ethics
 College of Education
 Broadcast Services
 Applied Mathematics
 Urban Design and Planning
 Business Administration Faculty Council
 Planning and Budgeting
 Rehabilitation Medicine
 Microbiology
 College of Engineering
 Pediatric Dentistry
 School of Oceanography
 Teacher Education Program
 Spanish and Portuguese Studies
 Speech Communication
 Scandinavian Languages
 Mathematics
 Statistics
 Liberal Studies Program

MISC.

Sociology
 International Studies
 Educational Outreach
 Molecular Biotechnology
 Mechanical Engineering
 Graduate School of Public Affairs
 Special Assistant to President
 Prosthodontics
 UW Bothell Campus
 Educational Psychology
 Comparative Medicine
 UWMC Administration
 Family and Child Nursing
 Health Sciences
 Chemistry
 Endodontics
 Biochemistry
 Botany
 History
 Astronomy
 Physics
 Anthropology
 Near Eastern Languages and Civilization
 Business Administration
 School of Law
 Nursing Program
 Oral and Maxillofacial Surgery
 Communications
 Philosophy
 Atmospheric Sciences
 Dance Program
 Linguistics
 Special Education
 Board of Regents
 Drama
 Department of Environmental Health
 Graduate School Council
 Pharmacy
 SAUF
 ASUW
 ASUW Senate
 ASUW Finance and Budget
 GPSS Senate
 Technical Communication
 Education Program - Bothell
 Management and Engineering
 SPHCM/Public Health and Community Medicine
 SUFAB

GPSS Executive
 Neurology
 School of Library and Information Science
 School of Social Work
 American Ethnic Studies

[These schedules are available for public inspection at the following address:

Public Records Office
 University of Washington
 4014 University Way N.E.
 Box 355502
 Seattle, WA 98195]

WSR 99-04-063
DEPARTMENT OF ECOLOGY
 [Filed February 1, 1999, 11:43 a.m.]

PUBLIC NOTICE OF DRAFT
PUBLIC HEARINGS AND DRAFT GENERAL
PERMIT FOR THE REISSUANCE OF THE
FRESH FRUIT PACKING INDUSTRY NPDES
WASTEWATER DISCHARGE GENERAL PERMIT

INTRODUCTION: The Washington State Department of Ecology (the department) proposes to reissue the fresh fruit packing industry national pollutant discharge elimination system waste discharge general permit (the permit). This permit regulates the discharge of process and stormwater from fresh fruit packing facilities to waters of the state, land application, and publicly owned treatment works. It is being reissued in accordance with the requirements of chapter 90.48 RCW and chapter 173-226 WAC.

PUBLIC WORKSHOPS AND HEARINGS: The department will hold two public workshops and hearings concerning the reissuance of this permit. The purpose of the workshops is to review the proposed changes, to answer questions, and to discuss ideas and concerns before formal testimony is given in the hearings. The purpose of the hearings is to provide interested parties an opportunity to state for the record their opinions and comments on the proposed reissuance. The workshops and hearings will be held at the following times and locations:

WHEN	Tuesday, March 23, 1999	Thursday, March 25, 1999
WHERE	Washington State Department of Ecology Central Regional Office 15 West Yakima Avenue Suite 200 Yakima, WA	Wenatchee Public Library 310 Douglas Wenatchee, WA
ROOM	Waterfall Room (Second Floor)	Auditorium
TIME: Workshop Hearing	3:00 - 4:00 p.m. Begins at 4:00 p.m.	3:00 - 4:00 p.m. Begins at 4:00 p.m.

MISC.

Persons needing special accommodations should contact Steven Huber at the Ecology Central Regional Office listed below.

IDENTIFICATION OF FACILITIES AND GEOGRAPHIC AREA COVERED: For the purposes of this permit, the state's fresh fruit packing industry is defined as those commercial facilities which receive, pack, store, and/or ship either hard or soft fruit. Although, the industry is located primarily in the state's centralized fruit growing region along the Columbia, Yakima, Wenatchee, and Okanogan rivers, the permit is valid for the entire state of Washington (the state).

Every new or existing fresh fruit packing facility within the state which engages in any of these activities and has a wastewater discharge must apply for coverage under this general permit. Individual permits will still be applied in those instances where ecology determines the general permit is not appropriate for that facility. Dischargers authorized by the general permit may request to be excluded from coverage under the general permit by applying for and being issued, upon department approval, an individual permit. The current permit is due to expire on March 4, 1999. However, the new permit will tentatively be issued in June 1999. Facilities with coverage under the current general permit who submit an application for renewal prior to the expiration date will have their coverage under the existing permit administratively extended until the new permit is issued. Permit coverage will expire for those facilities failing to submit an application in a timely manner.

FURTHER INFORMATION: The proposed general permit, fact sheet, application for coverage, small business economic impact statement and summary, and other related documents are on file and may be inspected and copied between the hours of 8:00 a.m. and 4:30 p.m., weekdays at the ecology location below. Copies of the documents will be sent to interested parties upon request. For further information contact: Steven Huber, General Permit Manager, Washington State Department of Ecology, Central Regional Office, 15 West Yakima Avenue, Suite 200, Yakima, WA 98902, phone (509) 454-7298, fax (509) 575-2809, e-mail shub461@ecy.wa.gov.

HOW AND WHEN TO SUBMIT COMMENTS: Comments on the permit may be submitted at the hearings either as oral testimony or in writing. Interested persons are also invited to submit written comments regarding the proposed general permit. All written comments must be received at the Ecology Central Regional Office address above by 5 p.m., March 30, 1999 to be considered in the final determination of this reissuance.

TENTATIVE DETERMINATION TO ISSUE THE GENERAL PERMIT: Ecology has tentatively determined to reissue this general permit to discharge to public waters, subject to certain effluent limitations, best management practices, and special permit conditions. A final determination will not be made until all comments received pursuant to this notice have been evaluated. This notice will be published in the Yakima Herald-Republic and the Wenatchee Daily World on February 17, 1999.

All comments received at the public hearings or by March 30, 1999, will be considered before final permit terms,

limitations, and conditions are established. A responsiveness summary will be prepared and available for public review. If the final content of the general permit remains substantially unchanged from the draft permit available at the time this public notice is published, a copy of the final determination in the form of a public notice of issuance shall be forwarded to all persons who submitted written comment or gave public testimony regarding the permit. However, if the final determination is substantially changed, another public notice of draft permit shall be published.

SUMMARY OF THE ECONOMIC IMPACT OF CHANGES TO THE PERMIT: With the exception of one change, all of the proposed changes to the permit result in either no new economic impact or a reduction in costs to the industry. The addition of whole effluent toxicity testing for surface water discharges of noncontact cooling water containing additives will result in a new one-time additional cost of about \$500 per facility to the approximately thirty facilities with this type of discharge. However, this additional cost is more than offset by the reduced monitoring costs for these same facilities.

Ecology is an equal opportunity and affirmative action employer. For special accommodation needs or requirements for this document in an alternate format, please contact Steve Huber at (509) 454-7298 or TDD (only) (509) 454-7673.

WSR 99-04-064

NOTICE OF PUBLIC MEETINGS

EDMONDS COMMUNITY COLLEGE

[Memorandum—February 1, 1999]

EDMONDS COMMUNITY COLLEGE

BOARD OF TRUSTEES

NOTICE OF SPECIAL MEETINGS

TO MEDIA/OTHER

February 4, 1999*	Echelbarger/Sherman Exceptional Faculty Award Ceremony, EdCC, Culinary Connections, 105 Brier Hall, 20000 68th Avenue West, Lynwood, WA, 3:00 p.m.
February 7, 1999*	Trustees Association of Community and Technical Colleges Winter Conference: Cavanaugh's at Capitol Lake, 2300 Evergreen Park Drive, Olympia, WA, 3:00 p.m.
February 8-9, 1999*	Trustees Association of Community and Technical Colleges Winter Conference: Cavanaugh's at Capitol Lake, 2300 Evergreen Park Drive, Olympia, WA, 7:30 a.m.

MISC.

February 11, 1999	Edmonds Community College Board of Trustees Special Board Meeting, EdCC, Snohomish Hall, Cascade Conference Room 304A, 20000 68th Avenue West, Lynwood, WA, 4:00 p.m. NOTE: CHANGE OF DATE.
February 20-23, 1999*	Association of Community College Trustees National Legislative Seminar: Marriott Wardman Park Hotel, Washington, DC, 8:30 a.m.

*This event is being scheduled as a special meeting, which is a study session where no action will be taken.

WSR 99-04-065
NOTICE OF PUBLIC MEETINGS
OFFICE OF THE GOVERNOR
 (Clemency and Pardons Board)
 [Memorandum—February 1, 1999]

The Washington State Clemency and Pardons Board hereby files with the code reviser the following schedule of its regular meetings for 1999:

The March meeting has been canceled. The June 4, September 3 and December 3 meetings of the Clemency and Pardons Board will be held in the John A. Cherberg Building, Hearing Room 4, Olympia, Washington, starting at 10:00 a.m.

WSR 99-04-068
PROCLAMATION
OFFICE OF THE GOVERNOR
 [February 1, 1999]

WHEREAS, extensive winter floods, snow melt, winds, and slides occurred between December 23, 1998, and January 4, 1999, threatening citizens and damaging property of Washington State;

WHEREAS, flooding, snow melt, winds, and slides caused shoulder washouts, filling roadway ditches and culverts with eroded soils and debris, washout of gabion baskets, loss of bridge embankment, and other damage in Cowlitz, King, Kittitas, Klickitat, Lincoln, Mason, Pacific, Pierce, Wahkiakum, Whatcom, and Whitman Counties;

WHEREAS, the Washington State Military Department has activated the state Emergency Operations Center, implemented response procedures, and is coordinating resources to support local officials in alleviating the immediate social and economic impacts to people, property, and infrastructure at an estimated cost of \$1,700,000 for the events;

NOW, THEREFORE, I, Gary Locke, Governor of the state of Washington, as a result of the aforementioned situation and under RCW Chapters 38.08, 38.52, and 43.06, do hereby proclaim that a State of Emergency exists in Cowlitz, King, Kittitas, Klickitat, Lincoln, Mason, Pacific, Pierce, Wahkiakum, Whatcom, and Whitman Counties, and direct the supporting plans and procedures to the *Washington 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 to and recover from the events. Additionally, the Washington State Department of Transportation 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 1st day of February, A.d., Nineteen Hundred and Ninety-Nine.

 Gary Locke
 Governor of Washington

BY THE GOVERNOR:

 Ralph Munro
 Secretary of State

WSR 99-04-098
NOTICE OF PUBLIC MEETINGS
STATE BOARD FOR
COMMUNITY AND TECHNICAL COLLEGES
 (Participant Outcomes Data Consortium)
 [Memorandum—February 1, 1999]

Following are details of an upcoming Participant Outcomes Data Consortium (PODC) meeting: On March 2, 1999, 10 a.m. to noon, at Old Capitol Building, Preston Conference Room, 614 Washington Street, Olympia. The PODC is composed of representatives from the State Board for Community and Technical Colleges, Office of the Superintendent of Public Instruction, Workforce Training and Education Coordinating Board, and Employment Security.

WSR 99-04-099
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 [Memorandum—February 1, 1999]

Mortgage Broker Commission meetings

3rd Wednesday of every 3rd month (normally): Washington Interactive Television, Lacey, Seattle, Spokane and Vancouver sites.

Friday, February 19, 1999	9 a.m. - 12 noon
Wednesday, May 19, 1999	9 a.m. - 12 noon

MISC.

Wednesday, August 18, 1999 9 a.m. - 12 noon
 Tuesday, November 16, 1999 9 a.m. - 12 noon

Escrow Commission meetings

2nd Tuesday of odd months:

Tuesday, January 12, 1999	9 a.m. - 12 noon	Highline Community College, Des Moines
Tuesday, March 9, 1999	9 a.m. - 12 noon	Highline Community College, Des Moines
Tuesday, May 11, 1999	9 a.m. - 12 noon	Cavanaugh's Fourth Avenue, Spokane
Tuesday, July 13, 1999	9 a.m. - 12 noon	Highline Community College, Des Moines
Tuesday, September 14, 1999	9 a.m. - 12 noon	Highline Community College, Des Moines
Tuesday, November 9, 1999	9 a.m. - 12 noon	Highline Community College, Des Moines

WSR 99-04-100
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE LIBRARY
 (Library Commission)
 [Memorandum—February 1, 1999]

The Washington State Library Commission is scheduled to meet as indicated below:

Date: Monday, February 22, 1999.

Time: 1:00 to 4:30.

Subject: Washington State Library Commission Quarterly Business Meeting.

Location: Timberland Regional Library, 415 Airdustrial Way S.W., Olympia, WA 98501-5799.

For additional information, please do not hesitate to contact Cathy M. Stussy at (360) 753-2914, fax (360) 586-7575 or INTERNET cstussy@statelib.wa.gov.

WSR 99-04-101
NOTICE OF PUBLIC MEETINGS
WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD
 [Memorandum—February 1, 1999]

A few of the meeting dates for the Washington State Workforce Training and Education Coordinating Board have

been changed for 1999. Below is an updated list for publication in the Washington State Register. Please note that the March meeting date has changed from the 10th to the 18th and the meeting location is different. The following meeting dates are being cancelled and the November meeting location is currently not identified: June 22, 1999, September 28, 1999, and November 9, 1999.

Friday, January 22, 1999-Meeting
 Utilities and Transportation Commission, Olympia
 Thursday, March 18, 1999-Meeting
 State Board of Industrial Insurance Appeals, Olympia
 Wednesday, April 28, 1999-Meeting
 Association of Washington Business, Olympia
 Wednesday, June 23, 1999-Meeting
 Water Resources Education Center, Vancouver
 Thursday, August 12, 1999-Retreat
 Friday, August 13, 1999-Retreat
 Spokane Intercollegiate Research & Technology Institute SIRTI, Spokane
 Wednesday, September 29, 1999-Meeting
 Bates Vocational-Technical Institute, Tacoma
 Wednesday, November 10, 1999-Meeting
 TBA

If you have any questions, please call (360) 753-5677.

WSR 99-04-107
AGENDA
DEPARTMENT OF AGRICULTURE
 [Filed February 3, 1999, 10:51 a.m.]

Washington State Department of Agriculture
Semi-Annual Rules Agenda

Chapter	Subject/Contact Person	Purpose of Rulemaking	Approximate CR-101 Filing Date	Approximate Adoption Date
New Rules	Pollinating Insects Contact: Cliff Weed, Program Manager, phone (360) 902-2036	Control of bloom in orchards	January 1999	December 1999

MISC.

Chapter	Subject/Contact Person	Purpose of Rulemaking	Approximate CR-101 Filing Date	Approximate Adoption Date
New Rules	Pollinating Insects Contact: Cliff Weed, Program Manager, phone (360) 902-2036	Protection of pollinating insects from pesticides on blooming crops	June 1999	December 1999
New Rules	Weights/Measures - Hop Bales and Tare Weights Contact: Jerry Buendel, Program Manager, phone (360) 902-1856	Establish standard weights for hop bales and standard tare weights for baling material	August 1998	February 1999
WAC 16-05	List of Organizations - Technical Assistance Contact: Dannie McQueen, Program Manager, (360) 902-1809	Update rules on developing a technical assistance list	February 1999	May 1999
WAC 16-101X	Penalties - Degrades for dairy producers and processors Contact: Claudia Coles, Compliance, phone (360) 902-1883	Correct inconsistencies in current rule language	April 1999	October 1999
WAC 16-108	Washington State Egg Assessment Fees Contact: Andy Scarborough, Program Manager, phone (360) 902-1830	Increase egg assessment fees	January 1999	May 1999
WAC 16-125	Farm Milk Storage Tanks Contact: Verne Hedlund, Program Manager, phone (360) 902-1860	Update rules	February 1999	May 1999
WAC 16-142	Perishable Package Foods - Pull Dating Contact: Verne Hedlund, Program Manager, phone (360) 902-1860	Rewrite in a clear rule format	February 1999	May 1999
WAC 16-167	Intrastate commerce in foods Contact: Mike Donovan, Program Manager, phone (360) 902-1883	Food processing establishment - Inspection criteria	October 1998	June 1999
WAC 16-167	Intrastate commerce in foods Contact: Verne Hedlund, Program Manager, phone (360) 902-1860	New rules on labeling unpasteurized apple juice	November 1998	April 1999
WAC 16-20, WAC 16-21, WAC 16-22, and WAC 16-23	Custom slaughter plants, slaughterers, handling of carcasses, custom meat handling establishments and custom meat facilities Contact: Verne Hedlund, Program Manager, phone (360) 902-1860	Consolidation and updating of rules to eliminate duplication	July 1998	April 1999
WAC 16-59	Importation of Poultry and Hatching Eggs Contact: Dr. Kathleen Connell, Assistant State Veterinarian, phone (360) 902-1878	Change definitions, modernize language and make technical changes	November 1998	April 1999
WAC 16-74	Livestock Testing—Duties of Owners Contact: Dr. Kathleen Connell, Assistant State Veterinarian, phone (360) 902-1878	Modernize language and add definitions	November 1998	April 1998
WAC 16-80	Pseudorabies in Swine Contact: Dr. Kathleen Connell, Assistant State Veterinarian, phone (360) 902-1878	Clarify and modernize language	November 1998	April 1999
WAC 16-200	Commercial Fertilizers Contact: Ted Maxwell, Program Manager, phone (360) 902-2026	Registrants providing maximum application rates to the department	November 1998	April 1999
WAC 16-200	Commercial Fertilizers Contact: Ali Kashani, Feed and Fertilizer Program, phone (360) 902-2028	Rules relating to commercial feeds and the adoption of the latest Association of American Feed Control Officials definitions, and FDA regulations	June 1998	July 1999
WAC 16-229	Secondary containment of bulk storage pesticides Contact: Cliff Weed, Program Manager, phone (360) 902-2036	Possible amendments for greater clarity and to consider additional exemptions from containment requirements	March 1999	March 2000
WAC 16-201	Secondary containment of bulk storage fertilizers Contact: Cliff Weed, Program Manager, phone (360) 902-2036	Possible amendments for greater clarity and to consider additional exemptions from containment requirements	March 1999	March 2000

MISC.

Chapter	Subject/Contact Person	Purpose of Rulemaking	Approximate CR-101 Filing Date	Approximate Adoption Date
WAC 16-234 WAC 16-212 WAC 16-224	Negotiable Warehouse Receipts Grain, Hay, Beans and Peas-Insp. Fees Designation of Warehouse Stations Contact: Don Michelbrook, Program Manager, phone (360) 533-2488	Updating rules	April 1999	November 1999
WAC 16-228	General rules relating to pesticide use Contact: Cliff Weed, Program Manager, phone (360) 902-2036	Updating and housecleaning of rules.	June 1999	June 2000
WAC 16-228	Pesticide Penalty Matrix Contact: Cliff Weed, Program Manager, phone (360) 902-2036	Update rules on assessing penalties	May 1999	May 2000
WAC 16-304	Seed Assessment Contact: Graydon Robinson, Program Manager, phone (509) 575-2750	Update to current practices	February 1999	August 1999
WAC 16-316	Small Grain Seed Certification Standards Contact: Graydon Robinson, Program Manager, phone (509) 575-2750	Increase fees assessed by WSCIA	February 1999	June 1999
WAC 16-319	Forest Reproductive Material Contact: Graydon Robinson, Program Manager, phone (509) 575-2750	Increase fees assessed by WSCIA	February 1999	June 1999
WAC 16-322	Mint Rootstock Certification Contact: Tom Wessels, Program Manager, phone (360) 902-2094	Amendments due to changes in industry practices, environmental conditions and program needs	January 1999	June 1999
WAC 16-401	Nursery Inspection Fees Contact: Tom Wessels, Program Manager, phone (360) 902-2094	Fee increases	January 1999	June 1999
WAC 16-462	Grapevines - Registration and Certification Contact: Tom Wessels, Program Manager, phone (360) 902-2094	Amendments to comply with new internationally mandated standards	January 1999	June 1999
WAC 16-470	Plant Pest Detection and Inspection Fees Contact: Tom Wessels, Program Manager, phone (360) 902-2094	Fee increases	January 1999	June 1999
WAC 16-470	Quarantine Pests - Apple Maggot Contact: Linda Polzin, Program Manager, phone (360) 902-2094	Clarify restrictions on movement of fruit	January 1999	June 1999
WAC 16-495 WAC 16-493 WAC 16-316	Annual Bluegrass, Rough Bluegrass and Seed Certification Standards Contact: Graydon Robinson, Program Manager, phone (509) 575-2750	Isolation limits and other updates to reflect industry changes	February 1999	August 1999
WAC 16-481	Grape Phylloxera Contact: Tom Wessels, Program Manager, phone (360) 902-2094	Amendments to comply with new international mandated standards	January 1999	June 1999
WAC 16-483	Grape Virus Quarantine Contact: Tom Wessels, Program Manager, phone (360) 902-2094	Amendments to comply with new international standards	January 1999	June 1999
WAC 16-54	Animal Importation Requirements Contact: Dr. Robert Mead, State Veterinarian, phone (360) 902-1881	Make technical corrections and clarify language	April 1998	April 1999
WAC 16-561	Marketing Standards for Red Raspberries Contact: Walter Swenson, Programs Administrator, phone (360) 902-1928	Labeling Requirements	December 1998	June 1999
WAC 16-607	Heritage Brands Contact: Julie Sandberg, Assistant Director, phone (360) 902-1851	Registration of Brands	March 1999	October 1999
WAC 16-536	Hop Commission Contact: Walter Swenson, Programs Administrator, phone (360) 902-1928	Membership qualifications	November 1998	May 1999

MISC.

Chapter	Subject/Contact Person	Purpose of Rulemaking	Approximate CR-101 Filing Date	Approximate Adoption Date
WAC 16-657	Weights/Measures—Motor Fuel Sign Requirements Contact: Jerry Buendel, Program Manager, phone (360) 902-1856	Establish standards for signage	January 1998	July 1998
WAC 16-662	National Handbooks Contact: Jerry Buendel, Program Manager, phone (360) 902-1856	Adopt updated National Handbook	January 1999	June 1999
WAC 16-663	Reporting, Test Procedures and Standards by Persons Servicing Weighing and Measuring Devices Contact: Jerry Buendel, Program Manager, (360) 902-1856	Update rules	April 1999	October 1999
WAC 16-664	Sealing and Marking Retesting Devices Contact: Jerry Buendel, Program Manager, (360) 902-1856	Update rules	April 1999	October 1999
WAC 16-675	Metrology Lab Fees Contact: Jerry Buendel, Program Manager, phone (360) 902-1856	Increase laboratory fees	January 1999	July 1999
WAC 16-84	RB-51 Vaccine - Brucellosis in Cattle Contact: Dr. Robert Mead, State Veterinarian, phone (360) 902-1881	Update vaccine requirements, modernize language, and remove unnecessary language	March 1998	April 1999
WAC 16-86	Brucellosis, Tuberculosis and Scrapie in Sheep and Goats - relating to vaccination of female cattle older than 12 months with RB-51. Contact: Dr. Robert Mead, State Veterinarian, phone (360) 902-1881	Modernize, clarify language	March 1998	April 1999
WAC 16-89	Regulating Scrapie in goats and sheep Contact: Dr. Robert Mead, State Veterinarian, phone (360) 902-1881	New rules to control and eradicate the disease scrapie	March 1998	April 1999

For more information contact: Dannie McQueen, Rules Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1809.

William E. Brookreson
Assistant Director

WSR 99-04-115
DEPARTMENT OF ECOLOGY

[Filed February 3, 1999, 11:27 a.m.]

Revised

ACCEPTED INDUSTRY STANDARDS
1998-1999 C&P Vessel Inspection Advisory Committee

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ...

I. OPERATING PROCEDURES

BRIDGE WATCH PROCEDURES

Employ a Bridge Resource Management (BRM) system that is consistent with STCW '95 and includes the following elements:

1. Formal underway watch conditions for open sea transits, coastal and restricted waters navigation, and restricted visibility conditions.
2. Watch composition for each condition.
3. Procedures for navigation with a pilot embarked.

4. Procedures for bridge team response to emergencies.
5. Clear delegation of duties, responsibilities and authority between bridge team members, including a clear policy for determining when the master has assumed control of the vessel from the deck watch officer or the state licensed pilot.
6. Procedures for both internal and external communication for each watch condition.
7. On-going monitoring and correction of the voyage plan and recording of significant deviations from the plan in the bridge log.

HELMSMAN AND LOOKOUT

Ensure that lookouts are assigned no other duties and that the helmsman does not serve as lookout.

PILOT/MASTER EXCHANGE OF INFORMATION

Employ a pilot card and procedures to facilitate coordination and communication with state-licensed pilots.

SECURITY ROUNDS

Ensure that security rounds of the vessel are conducted hourly while in port or at anchor and at least once per watch while underway. The Master should designate spaces on the vessel to be visited during the security rounds in standing orders or other instructions to watchstanders. The primary purpose of security rounds is to detect and report fires, flooding and/or unsafe conditions. Vessels in lay-up status are not affected by this standard.

ANCHOR WATCH

Ensure that a licensed deck officer is standing watch on the vessel's bridge and monitoring the vessel's position while anchored in state waters.

MISC.

GROUND TACKLE READINESS

Ensure that vessel anchors are clear and ready to drop, when safe and practicable, while underway in state waters.

VOYAGE PLANNING

Employ a documented voyage planning system for the entire transit through state waters that includes the following minimum elements:

1. Review of general waterway characteristics.
2. Navigational aids.
3. Charts, navigational publications, and notices to mariners.
4. Expected traffic levels.
5. Environmental (weather and currents) conditions expected.
6. Pilotage.
7. Vessel traffic services (VTS) procedures and communications.
8. Berthing/anchoring arrangements (if known).
9. Engineering considerations.
10. Voyage-specific amendments or additions to standard emergency procedures.

CHARTS AND PUBLICATIONS

Ensure that all charts and navigational publications covering state waters to be transited are correct and current.

ENGINE ROOM CREWING

Ensure that licensed engineer officers are on watch in the engine room and engine control room, if equipped, while underway in state waters. In addition, an unlicensed engineer rating should be on watch in the engineering spaces while underway in state waters.

ENGINEERING WATCH PRACTICES

Employ engineering watch practices that are consistent with STCW '95 and address, at a minimum, the following:

1. Formal underway watch conditions for open sea transits, and coastal and restricted waters transits.
2. Watch composition for each condition.
3. Procedures for taking over and performing a watch under various conditions and in various waters.
4. Procedures for engineering responses to emergencies.
5. Clear delegation of duties, responsibilities and authority between watch members.
6. Procedures for both internal and external communications for each watch condition.
7. Inspection, maintenance and operation of the propulsion, steering and power generating systems that meet international and federal requirements, and manufacturers' recommendations.

NAVIGATION EQUIPMENT ERROR CHECKS

Ensure that all radars, gyrocompasses, magnetic compasses and compass repeaters in use are properly calibrated, and checked for errors at least once per watch, while underway in state waters.

ELECTRICAL SYSTEMS

Ensure that standby and emergency generators are proven operational no more than 12 hours prior to entering or operating in state waters.

FUEL OIL SYSTEMS

Ensure that primary and back-up fuel pumps are proven operational, and fuel oil settler and service tanks are filled

with adequate clean oil for the entire transit through state waters, no more than 12 hours prior to entering or operating in state waters.

LUBE OIL SYSTEMS

Ensure that primary and back-up lube oil systems; including pumps, piping, valves, and switching mechanisms are proven operational no more than 12 hours prior to entering or operating in state waters.

OIL STRAINERS

Ensure that all fuel and lube oil strainers are cleaned and ready for use no more than 12 hours prior to entering or operating in state waters.

COOLING WATER SYSTEMS

Ensure that all cooling water primary and back-up circulating systems; including pumps, lines, valves, and automatic and manual switching mechanisms are proven operational no more than 12 hours prior to entering or operating in state waters. In addition, scoop injection cooling water systems, if installed, should be secured before entering state pilotage waters.

CONTROL/START AIR SYSTEMS

Ensure that control and starting air system tanks are full, all primary and back-up air compressors have been proven operational, and condensate in the system has been properly drained, no more than 12 hours prior to entering or operating in state waters.

STEERING GEAR FLAT

Ensure that primary and back-up steering systems are tested no more than 12 hours prior to entering or operating in state waters. In addition, the steering gear flat should be inspected hourly while the vessel is underway in state waters, unless a remote monitoring system is installed.

CARGO OPERATIONS/STABILITY

Ensure that vessel Masters and Chief Officers prepare, update, and monitor stability plans for all cargo loading and unloading operations. Transverse stability, longitudinal hull stress, sheer forces, bending moments and ballasting should be considered. Updates should be reviewed and coordinated with terminal personnel responsible for cargo operations.

DANGEROUS/HAZARDOUS CARGO

Ensure that vessels transporting, loading, or unloading dangerous and/or hazardous cargo pre-verify cargo stowage for acceptability per the International Maritime Dangerous Goods (IMDG) Code and 49 CFR. Proper cargo stowage should be verified by the person designated by the Master to be responsible for dangerous and/or hazardous cargo loading/unloading.

OIL TRANSFERS

Ensure that:

1. All bunkering operations in Washington waters comply with chapter 317-40 WAC, Bunkering Operations.
2. Ships possess and use written Oil Transfer Procedures (OTP) that meet the requirements of 33 CFR 155.720 for all transfers of oil within the vessel, and to or from the vessel.
3. The OTP is written in the common working language of the vessel's crew.
4. For transfers to or from the ship, the OTP requires a face-to-face pre-transfer conference between the vessel's and the facility's, terminal's or other vessel's PIC to prepare the

Declaration of Inspection required by 33 CFR 156.150, unless conditions make it unsafe to do so.

5. For transfers to or from the ship, the OTP requires documented pre-transfer planning that, at a minimum, includes pre-transfer levels in receiving tanks, states the order in which tanks will receive or discharge oil, establishes procedures for sounding receiving and discharging tanks, and topping off receiving tanks.

6. The OTP ensures that crew involved in any oil transfer meet the rest requirements under STCW '95. (At least 10 hours of rest in any 24-hour period and not less than 70 hours of rest in any 7-day period.)

7. The OTP provides for periodic review and training in the policies and practices required by the OTP.

EMERGENCY PROCEDURES

Establish and maintain station bills outlining crew member responsibilities for firefighting, oil spill response, abandon ship and man overboard. In addition, written procedures should be established for responding to:

1. Collisions and allisions
2. Groundings and strandings
3. Hull breach, structural failure, and foundering
4. Loss of propulsion
5. Loss of steering
6. Loss of electrical power
7. Gyrocompass malfunction
8. Emergency towing
9. Loss of bridge throttle control (if equipped)
10. Heavy weather

Provision should be made for periodic reviews or drills to exercise the written procedures.

EMERGENCY TOWING

Ensure that all affected vessels have a functional emergency towing plan and/or procedures and that crew members are trained to deploy and use emergency towing equipment. Reviews or drills of emergency towing procedures should be conducted at least twice per year.

II. PERSONNEL POLICIES

VESSEL CREWING

Ensure that their vessels are crewed in accordance with the requirements of the vessels' flag state. Crew members should be certified in accordance with STCW '95 for the position they are filling.

WORK HOURS/FATIGUE

Ensure that vessel crew members are rested at least 10 hours per day except in an emergency. The 10 hours may be divided into no more than two periods, but at least 6 hours of rest each day must be consecutive and uninterrupted. In an emergency, vessel crew members may be rested less than 10 hours, but not less than 6 consecutive hours, per day, and for no more than two consecutive days. All crew members must have at least 70 hours of rest per seven day period in all cases. This standard does not apply to state-licensed pilots who are covered by the State Pilotage Code.

ALCOHOL AND DRUG POLICY

Establish and maintain policies for alcohol use that conform to 33 and 46 CFR, including mandatory post-incident testing. In addition, they should strictly prohibit illegal drugs, as defined in 46 CFR, from use or carriage on board

their vessels. This standard does not apply to state-licensed pilots, who are covered by the State Pilotage Code.

JOB SPECIFIC AND REFRESHER TRAINING

Establish and maintain a comprehensive training program for vessel crew members that includes functional and job-specific equipment training, and refresher training. Training program should include bridge resource management training for deck watch personnel and shipboard management training consistent with the International Safety Management (ISM) code for senior officers. This standard does not apply to state-licensed pilots, who are covered by the State Pilotage Code.

FAMILIARIZATION TRAINING

Ensure familiarization training is provided for new crew members who have not been assigned to a vessel of the same type within the past year. The familiarization training should include duties and responsibilities during all normal and emergency situations, and vessel arrangement familiarization, including escape routes from work and sleeping spaces.

BASIC EMERGENCY DRILLS

Ensure that emergency drills are conducted at least once per month or whenever 25% or more of the vessel crew is replaced. Drills should be evaluated and reviewed by all participants at the conclusion of the drill. Emergency drills should include firefighting, abandon ship, boat drill, emergency steering and oil spill response.

ENGLISH PROFICIENCY

Ensure that all officers who are required to communicate with pilots, persons ashore, and other vessels, are sufficiently proficient in the English language to accomplish their duties safely.

COMMON LANGUAGE

Designate a common spoken and written working language on board vessels with multi-national crews. All manuals, instructions, and placards on vessels with multi-national crews should be printed in the designated common language.

III. MANAGEMENT PRACTICES

MANAGEMENT OVERSIGHT

Ensure that vessels are visited by a representative of company management, such as a port captain, a port engineer, or the management system designated person, at least quarterly. The management representative should review operating and management issues, inspect the vessel, and consult with the senior officers on the vessel.

SAFETY/ENVIRONMENTAL MANAGEMENT PROGRAM

Establish and maintain a certified safety and environmental protection management system in accordance with the ISM code.

SAFETY PROGRAM

Ensure that a corporate safety program consistent with the ISM Code is established and maintained. The safety program should include a system for disseminating critical safety information, including accident prevention measures and corrective actions, throughout the owner or operator's fleet of vessels.

SHIPBOARD SAFETY PROGRAM

Ensure that a shipboard safety program is established and maintained that includes safety meetings at least monthly.

POLLUTION

Establish and maintain a pollution prevention and waste management program on each affected vessel to ensure compliance with international and federal regulations. The program should provide for incineration or landing, with record maintenance and receipts, of oil and solid waste. Record keeping systems should comply with international and federal standards. The program should also include crew training on pollution prevention and waste management practices.

BALLAST WATER

Establish and maintain a ballast water policy that prohibits ballasting near sewer outfalls, in shallow water, or in water clouded with sediment, and requires a mid-ocean ballast water exchange, when safe and practical, to reduce the risk of introducing harmful organisms into state waters.

PLANNED MAINTENANCE SYSTEM

Ensure that a planned maintenance system, consistent with ISM Code provisions, that includes preventive maintenance and detailed record keeping is in place for all major ship systems.

INSPECTION/SURVEY

Ensure that ballast tanks and cargo holds are inspected at least annually to detect potential structural failures, cracks, coating integrity, and excessive corrosion.

ULTRASONIC GAUGING

Establish and maintain a program of ultrasonic gauging and/or non-destructive testing of vessel hulls and tanks at intervals not to exceed 3 years, if the affected vessels are not participating in an enhanced hull survey program administered by the International Association of Classification Societies (IACS). This standard does not apply to passenger vessels.

In addition to inspecting cargo vessels for the above operating standards, the Department of Ecology also inspects vessels for compliance with:

1. **Washington State Oil Spill Contingency Plan rules: Chapter 317-10 WAC.**
2. **Washington State Bunkering rules: Chapter 317-40 WAC.**
3. **Applicable requirements under:**
 - **International Convention for the Safety of Life at Sea (SOLAS);**
 - **International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW);**
 - **International Convention on the Prevention of Pollution from Ships (MARPOL);**
 - **Title 33 of the U.S. Code of Federal Regulations (CFR); and**
 - **Title 46 of the U.S. Code of Federal Regulations (CFR).**

WSR 99-04-116

AGENDA

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed February 3, 1999, 11:46 a.m.]

**The Department of Labor and Industries
Semi-Annual Rule Development Agenda
(January 1, 1999-July 1, 1999)**

WAC CHAPTER	CHAPTER TITLE	AGENCY CONTACT	TIMING	SCOPE OF RULE CHANGES
WASHINGTON INDUSTRIAL SAFETY AND HEALTH (WISHA)				
Chapter 296-24 WAC	General safety and health standards	Ken Lewis, 902-4568	CR-101: 6/2/98 CR-102XA: 12/22/98 CR-103: 2/23/99 Effective: 4/26/99	To adopt WISHA written program requirements on accident prevention to comply with EO 97-02 on regulatory improvement.
Chapter 296-62 WAC	General occupational health standards	Ken Lewis, 902-4568	CR-101: 6/2/98 CR-102: 10/21/98 Hearing: 12/10/98 CR-103: 3/17/99 Effective: 6/17/99	To amend the requirements for emergency eyewashing facilities, and to comply with EO 97-02 on regulatory improvement.

MISC.

WAC CHAPTER	CHAPTER TITLE	AGENCY CONTACT	TIMING	SCOPE OF RULE CHANGES
Chapters 296-305 and 296-24 WAC	Safety standards for fire fighters	Cindy Ireland, 902-5522	CR-101: 5/19/98 CR-102: 8/18/98 Hearing: 9/22/98 CR-103: 2/17/99 Effective: 6/1/99	To adopt federal OSHA requirements to make the state's requirements at least as effective as OSHA's. Changes include: •Narrowing the scope and application of the fire brigade standard. •Clarifying eye and face protection. •Clarifying physical requirements. •Clarifying the 2-in, 2-out requirement.
Chapter 296-54 WAC	Safety standards for logging operations	Cindy Ireland, 902-5522	CR-101: 5/7/97 CR-102: 9/22/98 Hearing: To be determined CR-103: 8/11/99 Effective: 11/18/99	To amend the logging standards, and to comply with EO 97-02 on regulatory improvement.
Chapter 296-62 WAC	General occupational health standards	Ken Lewis, 902-4568	CR-101: 6/2/98 CR-102XA: 12/22/98 CR-103: 3/23/99 Effective: 6/23/99	To adopt rules on hazardous waste operations and emergency response requirements, and to comply with EO 97-02 on regulatory improvement.
Chapter 296-79 WAC	Pulp, paper, paperboard mills and converters	Ken Lewis, 902-4568	CR-101: 8/24/94 CR-102: 3/2/99 Hearing: 4/7/99 CR-103: 8/3/99 Effective: 11/3/99	To adopt the pulp and paper standard with the assistance of an industry labor/management committee and an advisory committee. The rule is also necessary to comply with EO 97-02 on regulatory improvement.
Chapters 296-62 and 296-65 WAC	General occupational health standards and asbestos removal and encapsulation	Christy Wood, 902-5524	CR-101: 12/1/98 CR-102: 4/6/99 Hearings: 5/14/99 Adoption: 8/10/99 Effective: 11/10/99	To adopt federal OSHA requirements on the asbestos standard.
Chapters 296-24, 296-62, 296-56, 296-78, 296-155, 296-304, and 296-305 WAC	General safety and health standards; General occupational health standards; Safety standards—Longshore, stevedore and related waterfront operations; Sawmills and woodworking operations; Construction work; Ship repairing, shipbuilding and shipbreaking; and Fire fighters	Christy Wood, 902-5524	CR-101: 4/1/98 CR-102: 11/17/98 Hearings: 1/5/99 (Tumwater), 1/6/99 (Spokane) and 1/7/99 (Yakima) Adoption: 5/3/99 Effective: 9/1/99	To adopt a federal OSHA respiratory protection requirement.
Chapter 296-45 WAC	Safety standards for electrical workers	Jennie Hays, 902-5523	CR-102XA: 2/2/98 Adoption: 4/20/99 Effective: 8/1/99	To adopt federal OSHA requirements on the electrical standard in order to be as effective as the federal final rule.
Chapters 296-24, 296-62, 296-32, 296-52, 296-78, 296-79, 296-155, and 296-301 WAC	General safety and health standards; General occupational safety and health standards; Safety standards—Telecommunications; Handling of explosives; Woodworking, pulp and papermills, construction work; Textile industry	Jennie Hays, 902-5523	CR-101: 2/3/99 CR-102: 5/18/99 Hearing: To be determined CR-103: 8/17/99 Effective: 12/1/99	To adopt federal miscellaneous OSHA requirements to be as effective as the federal final rule.

MISC.

WAC CHAPTER	CHAPTER TITLE	AGENCY CONTACT	TIMING	SCOPE OF RULE CHANGES
ADMINISTRATION - LEGAL SERVICES				
Chapter 296-06 WAC	Public records	Joseph Molenda, 902-4544	CR-101: 5/31/99 CR-102: 7/30/99 Public hearings: 9/15/99 CR-103: 10/29/99 Effective date: 12/1/99	Rule is to be updated to reflect new organizational structure, locations and simplification of rule language. Minor policy revisions may also occur.
OFFICE OF THE MEDICAL DIRECTOR				
WAC 296-20-0270 - 296-20-0275 and 296-20-0285	Medical aid rules	Jami Lifka, 902-4941	CR-101: 6/3/98 CR-102: 3/99 Public Hearings 4: 5/99 CR-103: 6/99 Effective date: 8/99	To adopt the criteria which are used to make medical coverage decisions.
WAC 296-20-01002	Definitions	Jami Lifka, 902-4941	CR-101: 5/99 CR-102: Public Hearing: CR-103: Effective date:	To review the definitions according to the governor's executive order and making any changes on regulatory improvement found to be necessary.
SPECIALTY COMPLIANCE SERVICES DIVISION				
WAC 296-400A-045	Plumber certification	Kevin Morris, 902-5578	CR-102XA: 1/20/99 Public Hearing: n/a CR-103: 3/20/99 Effective date: 4/20/99	To reduce fees that were raised in excess of the amount allowed by I-601.
Chapter 296-96 WAC	Elevators	Richard Atkinson, 902-6369	CR-101: 6/17/98 CR-102: 3/24/99 Public Hearing: 4/27/99 CR-103: 5/28/99 Effective date: 6/28/99	Adopt new chapter that incorporates all existing elevator chapters, plus the electric manlift chapter from WISHA.
WAC 296-104-700 WAC 296-104-285	Fees; Unfired pressure vessels	Pat Carlson-Brown, 902-5271	CR-101: 12/2/98 CR-102: 1/27/99 Public Hearing: 3/16/99 CR-103: 3/30/99 Effective date: 4/30/99	To increase boiler fees by 4.18%. The 4.18% rate is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 1999. The general fee increases are necessary to maintain the fiscal health and operational effectiveness of the program. Deleting WAC 296-104-285 to eliminate unnecessary duplication.
Chapter 296-150T WAC	Factory-built temporary worker housing structures	Dan Wolfenbarger, 902-5225	CR-101: 12/23/98 CR-102: 3/3/99 Public Hearing(s): 4/7 and 4/8/99 (Yakima and Olympia) CR-103: 4/30/99 Effective date: 6/1/99	To adopt a new chapter to implement the statutory requirements of SB 6268 which directed the DOH to adopt by rule a "temporary worker building code" and for L&I to adopt the rules implementing the temporary worker building code on structures built in a factory.
SPECIALTY COMPLIANCE SERVICES DIVISION				
Chapters 296-150C, 296-150F, 296-150M, 296-150P and 296-150R WAC	Factory assembled structures	Dan Wolfenbarger, 902-5225	CR-101: 2/17/99 CR-102: 4/2/99 Public Hearing: 5/11/99 CR-103: 6/1/99 Effective date: 7/1/99	Amend FAS rules for clarification and housekeeping and to incorporate a number of existing policies into WAC rules.
Chapter 296-403 WAC	Amusement rides or structures	Janet Lewis, 902-5249	CR-101: 3/3/99 CR-102: 4/16/99 Public Hearing: 5/25/99 CR-103: 6/15/99 Effective date: 7/25/99	Change permit process to allow issuance of temporary short-term permits to amusement rides.

MISC.

WAC CHAPTER	CHAPTER TITLE	AGENCY CONTACT	TIMING	SCOPE OF RULE CHANGES
Chapter 296-200A WAC Chapters 296-150C, 296-150F, 296-150M, 296-150P, and 296-150R WAC WAC 296-46-910 Chapter 296-86A WAC WAC 296-46-915	Contractor registration; Factory assembled structures; Electrical permit; Elevators; Electrical licensing	Pete Schmidt, 902-5571	CR-101: 12/23/98 CR-102: 3/3/99 Public Hearing(s): 4/7 and 4/8/99 (Yakima and Olympia) CR-103: 4/30/99 Effective date: 6/1/99	Increase fees by 4.18%. The 4.18% rate is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 1999. The general fee increases are necessary to maintain the fiscal health and operational effectiveness of the program. New fees are established to cover the cost of FAS medical gas plan review and for duplicate electrical licenses and certificates.
BOILER BOARD				
Chapter 296-104 WAC	Boilers and unfired pressure vessel law	Pat Carlson-Brown, 902-5271	CR-101: 2/10/99 CR-102: 6/30/99 Public Hearing: 9/21/99 CR-103: 9/20/99 Effective date: 11/2/99	Rule-making activity is primarily for the purposes of clear rule writing, housekeeping and editing.
RETROSPECTIVE RATING				
Chapter 296-17 WAC	General reporting rules, classifications, audit and recordkeeping, rates and rating system for workers' compensation insurance	Frank Romero, 902-4835	CR-101: 2/17/99 CR-102: 8/4/99 Public Hearing: 9/13/99 CR-103: 10/31/99 Effective date: 1/1/2000	Rules applicable to the industrial insurance retrospective rating program including provisions to implement JLARC performance audit recommendations and requirements of RCW 51.16.035 applicable to workplace safety, accident prevention and claims management.
CRIME VICTIMS COMPENSATION				
Chapters 296-30 and 296-31 WAC	Crime victims compensation	Valerie Estes, 902-5369	CR-101: 4/21/99 CR-102: 6/16/99 Public Hearing: 7/27/99 CR-103: 9/2/99 Effective date: 10/3/99	The rules above are the second segment of rules being reviewed by the program for regulatory improvement. We are reviewing and rewriting all CVC rules, which have been broken out into three segments. In addition, the following rules will be affected by the standards of treatment task force, and will also be written to comply with recommendations that come out of the task force. The timelines for these will be determined based on the recommendations and implementation of those recommendations, but are expected to also take place in the next six months.



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
 - OBJECT = 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 of existing section
 - REVIEW = Review of previously adopted rule
 - SUSP = Suspending an existing section

- 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.

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162- 22-035	NEW-P	99-04-108	180- 79A-380	PREP	99-04-085	208-464-070	REP	99-03-009
162- 22-040	REP-P	99-04-108	180- 82	PREP	99-04-109	208-464-080	REP	99-03-009
162- 22-045	NEW-P	99-04-108	180- 82-002	NEW	99-04-008	208-464-090	REP	99-03-009
162- 22-050	REP-P	99-04-108	180- 82-004	NEW	99-04-008	208-480-010	REP	99-03-009
162- 22-060	REP-P	99-04-108	180- 82-105	NEW	99-04-008	208-480-020	REP	99-03-009
162- 22-065	NEW-P	99-04-108	180- 82-110	NEW	99-04-008	208-480-030	REP	99-03-009
162- 22-070	REP-P	99-04-108	180- 82-115	NEW	99-04-008	208-480-040	REP	99-03-009
162- 22-075	NEW-P	99-04-108	180- 82-120	NEW	99-04-008	208-480-050	REP	99-03-009
162- 22-080	REP-P	99-04-108	180- 82-125	NEW	99-04-008	208-480-060	REP	99-03-009
162- 22-090	AMD-P	99-04-108	180- 82-130	NEW	99-04-008	208-480-070	REP	99-03-009
162- 22-100	AMD-P	99-04-108	180- 82-200	NEW	99-04-008	220- 32-05100J	NEW-E	99-04-059
162- 26-010	AMD-P	99-04-108	180- 82-201	NEW	99-04-008	220- 32-05100J	REP-E	99-04-059
162- 26-020	REP-P	99-04-108	180- 82-202	NEW	99-04-008	220- 44-08000A	NEW-E	99-03-008
162- 26-030	REP-P	99-04-108	180- 82-204	NEW	99-04-008	220- 52-050	REP-E	99-04-053
162- 26-035	REP-P	99-04-108	180- 82-210	NEW	99-04-008	220- 52-07300J	REP-E	99-03-054
162- 26-040	AMD-P	99-04-108	180- 82-215	NEW	99-04-008	220- 52-07300K	NEW-E	99-03-054
162- 26-050	REP-P	99-04-108	180- 82-300	NEW	99-04-008	220- 55-001	NEW	99-03-029
162- 26-060	AMD-P	99-04-108	180- 82-304	NEW	99-04-008	220- 55-005	AMD	99-03-029
162- 26-070	AMD-P	99-04-108	180- 82-308	NEW	99-04-008	220- 55-010	AMD	99-03-029
162- 26-080	AMD-P	99-04-108	180- 82-310	NEW	99-04-008	220- 55-015	AMD	99-03-029
162- 26-090	REP-P	99-04-108	180- 82-312	NEW	99-04-008	220- 55-040	AMD	99-03-029
162- 26-100	AMD-P	99-04-108	180- 82-314	NEW	99-04-008	220- 55-050	AMD	99-03-029
162- 26-110	AMD-P	99-04-108	180- 82-315	NEW-P	99-04-110	220- 55-055	AMD	99-03-029
162- 26-120	AMD-P	99-04-108	180- 82-316	NEW	99-04-008	220- 55-060	AMD	99-03-029
162- 26-135	NEW-P	99-04-108	180- 82-317	NEW-P	99-04-110	220- 55-065	AMD	99-03-029
162- 26-140	AMD-P	99-04-108	180- 82-318	NEW	99-04-008	220- 55-070	AMD	99-03-029
162- 30-010	AMD-P	99-04-108	180- 82-319	NEW-P	99-04-110	220- 55-075	REP	99-03-029
162- 30-020	AMD-P	99-04-108	180- 82-320	NEW	99-04-008	220- 55-100	AMD	99-03-029
162- 38-040	AMD-P	99-04-108	180- 82-321	NEW-P	99-04-110	220- 55-105	AMD	99-03-029
162- 38-100	AMD-P	99-04-108	180- 82-322	NEW	99-04-008	220- 55-110	AMD	99-03-029
162- 38-105	NEW-P	99-04-108	180- 82-324	NEW	99-04-008	220- 55-115	AMD	99-03-029
162- 38-110	AMD-P	99-04-108	180- 82-326	NEW	99-04-008	220- 55-120	AMD	99-03-029
162- 38-130	REP-P	99-04-108	180- 82-328	NEW	99-04-008	220- 55-125	AMD	99-03-029
173-400-030	AMD-XA	99-04-097	180- 82-330	NEW	99-04-008	220- 55-155	REP	99-03-029
173-400-040	AMD-XA	99-04-097	180- 82-332	NEW	99-04-008	220- 88B-010	REP-E	99-04-053
173-400-060	AMD-XA	99-04-097	180- 82-334	NEW	99-04-008	220- 88B-020	REP-E	99-04-053
173-400-070	AMD-XA	99-04-097	180- 82-336	NEW	99-04-008	220- 88B-030	REP-E	99-04-053
173-400-075	AMD-XA	99-04-097	180- 82-339	NEW	99-04-008	220- 88B-040	REP-E	99-04-053
173-400-104	AMD-XA	99-04-097	180- 82-342	NEW	99-04-008	220- 88B-050	REP-E	99-04-053

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
230-20-058	NEW	99-03-103	246-316-990	PREP-W	99-04-048	246-318-770	REP	99-04-052
232-12-001	AMD	99-03-029	246-318-010	REP	99-04-052	246-318-780	REP	99-04-052
232-12-069	REP	99-03-029	246-318-013	REP	99-04-052	246-318-790	REP	99-04-052
232-12-072	NEW	99-03-029	246-318-015	REP	99-04-052	246-318-800	REP	99-04-052
232-12-157	AMD	99-03-029	246-318-017	REP	99-04-052	246-318-810	REP	99-04-052
232-12-166	AMD	99-03-029	246-318-020	REP	99-04-052	246-318-820	REP	99-04-052
232-12-189	AMD	99-03-029	246-318-025	REP	99-04-052	246-318-830	REP	99-04-052
232-12-241	REP	99-03-029	246-318-030	REP	99-04-052	246-318-840	REP	99-04-052
232-12-619	AMD	99-03-029	246-318-033	REP	99-04-052	246-318-850	REP	99-04-052
232-12-830	NEW	99-03-029	246-318-035	REP	99-04-052	246-318-860	REP	99-04-052
232-28-61900B	REP-E	99-04-060	246-318-040	REP	99-04-052	246-318-870	REP	99-04-052
232-28-61900B	NEW-E	99-04-060	246-318-042	REP	99-04-052	246-318-990	REP	99-04-052
245-02-010	DECOD	99-04-049	246-318-150	REP	99-04-052	246-318-99902	REP	99-04-052
245-02-020	DECOD	99-04-049	246-318-155	REP	99-04-052	246-318-99910	REP	99-04-052
245-02-025	DECOD	99-04-049	246-318-160	REP	99-04-052	246-320-001	NEW	99-04-052
245-02-030	DECOD	99-04-049	246-318-160	REP	99-04-052	246-320-010	NEW	99-04-052
245-02-035	DECOD	99-04-049	246-318-170	REP	99-04-052	246-320-025	NEW	99-04-052
245-02-040	DECOD	99-04-049	246-318-180	REP	99-04-052	246-320-045	NEW	99-04-052
245-02-045	DECOD	99-04-049	246-318-190	REP	99-04-052	246-320-065	NEW	99-04-052
245-02-050	DECOD	99-04-049	246-318-200	REP	99-04-052	246-320-085	NEW	99-04-052
245-02-100	DECOD	99-04-049	246-318-210	REP	99-04-052	246-320-105	NEW	99-04-052
245-02-110	DECOD	99-04-049	246-318-220	REP	99-04-052	246-320-125	NEW	99-04-052
245-02-115	DECOD	99-04-049	246-318-230	REP	99-04-052	246-320-145	NEW	99-04-052
245-02-120	DECOD	99-04-049	246-318-240	REP	99-04-052	246-320-165	NEW	99-04-052
245-02-125	DECOD	99-04-049	246-318-250	REP	99-04-052	246-320-185	NEW	99-04-052
245-02-130	DECOD	99-04-049	246-318-260	REP	99-04-052	246-320-205	NEW	99-04-052
245-02-131	DECOD	99-04-049	246-318-270	REP	99-04-052	246-320-225	NEW	99-04-052
245-02-135	DECOD	99-04-049	246-318-280	REP	99-04-052	246-320-245	NEW	99-04-052
245-02-140	DECOD	99-04-049	246-318-290	REP	99-04-052	246-320-265	NEW	99-04-052
245-02-145	DECOD	99-04-049	246-318-300	REP	99-04-052	246-320-285	NEW	99-04-052
245-02-150	DECOD	99-04-049	246-318-310	REP	99-04-052	246-320-305	NEW	99-04-052
245-02-155	DECOD	99-04-049	246-318-320	REP	99-04-052	246-320-325	NEW	99-04-052
245-02-160	DECOD	99-04-049	246-318-330	REP	99-04-052	246-320-345	NEW	99-04-052
245-02-165	DECOD	99-04-049	246-318-350	REP	99-04-052	246-320-365	NEW	99-04-052
245-02-170	DECOD	99-04-049	246-318-370	REP	99-04-052	246-320-385	NEW	99-04-052
245-02-175	DECOD	99-04-049	246-318-380	REP	99-04-052	246-320-405	NEW	99-04-052
245-02-180	DECOD	99-04-049	246-318-390	REP	99-04-052	246-320-500	NEW	99-04-052
246-05-001	REP	99-03-062	246-318-400	REP	99-04-052	246-320-505	NEW	99-04-052
246-05-010	REP	99-03-062	246-318-420	REP	99-04-052	246-320-515	NEW	99-04-052
246-05-020	REP	99-03-063	246-318-440	REP	99-04-052	246-320-525	NEW	99-04-052
246-05-030	REP	99-03-062	246-318-450	REP	99-04-052	246-320-535	NEW	99-04-052
246-25	PREP	99-04-050	246-318-500	REP	99-04-052	246-320-545	NEW	99-04-052
246-25-010	RECOD	99-04-049	246-318-510	REP	99-04-052	246-320-555	NEW	99-04-052
246-25-020	RECOD	99-04-049	246-318-520	REP	99-04-052	246-320-565	NEW	99-04-052
246-25-025	RECOD	99-04-049	246-318-530	REP	99-04-052	246-320-575	NEW	99-04-052
246-25-030	RECOD	99-04-049	246-318-540	REP	99-04-052	246-320-585	NEW	99-04-052
246-25-035	RECOD	99-04-049	246-318-550	REP	99-04-052	246-320-595	NEW	99-04-052
246-25-040	RECOD	99-04-049	246-318-560	REP	99-04-052	246-320-605	NEW	99-04-052
246-25-045	RECOD	99-04-049	246-318-570	REP	99-04-052	246-320-615	NEW	99-04-052
246-25-050	RECOD	99-04-049	246-318-580	REP	99-04-052	246-320-625	NEW	99-04-052
246-25-100	RECOD	99-04-049	246-318-590	REP	99-04-052	246-320-635	NEW	99-04-052
246-25-110	RECOD	99-04-049	246-318-600	REP	99-04-052	246-320-645	NEW	99-04-052
246-25-115	RECOD	99-04-049	246-318-610	REP	99-04-052	246-320-655	NEW	99-04-052
246-25-120	RECOD	99-04-049	246-318-620	REP	99-04-052	246-320-665	NEW	99-04-052
246-25-125	RECOD	99-04-049	246-318-630	REP	99-04-052	246-320-675	NEW	99-04-052
246-25-130	RECOD	99-04-049	246-318-640	REP	99-04-052	246-320-685	NEW	99-04-052
246-25-131	RECOD	99-04-049	246-318-650	REP	99-04-052	246-320-695	NEW	99-04-052
246-25-135	RECOD	99-04-049	246-318-660	REP	99-04-052	246-320-705	NEW	99-04-052
246-25-140	RECOD	99-04-049	246-318-670	REP	99-04-052	246-320-715	NEW	99-04-052
246-25-145	RECOD	99-04-049	246-318-680	REP	99-04-052	246-320-725	NEW	99-04-052
246-25-150	RECOD	99-04-049	246-318-690	REP	99-04-052	246-320-735	NEW	99-04-052
246-25-155	RECOD	99-04-049	246-318-700	REP	99-04-052	246-320-745	NEW	99-04-052
246-25-160	RECOD	99-04-049	246-318-710	REP	99-04-052	246-320-755	NEW	99-04-052
246-25-165	RECOD	99-04-049	246-318-720	REP	99-04-052	246-320-765	NEW	99-04-052
246-25-170	RECOD	99-04-049	246-318-730	REP	99-04-052	246-320-775	NEW	99-04-052
246-25-175	RECOD	99-04-049	246-318-740	REP	99-04-052	246-320-785	NEW	99-04-052
246-25-180	RECOD	99-04-049	246-318-750	REP	99-04-052	246-320-795	NEW	99-04-052
			246-318-760	REP	99-04-052			

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246-320-805	NEW	99-04-052	246-560-011	NEW	99-03-043	260-48-600	AMD-P	99-02-081
246-320-815	NEW	99-04-052	246-560-025	NEW	99-03-043	260-48-620	AMD-P	99-02-081
246-320-990	NEW	99-04-052	246-560-035	NEW	99-03-043	260-48-700	NEW-P	99-02-081
246-320-99902	NEW	99-04-052	246-560-040	AMD	99-03-043	260-48-710	NEW-P	99-02-081
246-359-001	NEW	99-03-065	246-560-045	NEW	99-03-043	260-48-720	NEW-P	99-02-081
246-359-005	NEW	99-03-065	246-560-050	AMD	99-03-043	260-48-910	NEW-P	99-02-081
246-359-010	NEW	99-03-065	246-560-060	AMD	99-03-043	260-75	PREP	99-03-014
246-359-020	NEW	99-03-065	246-560-065	NEW	99-03-043	275-27-020	AMD	99-04-071
246-359-030	NEW	99-03-065	246-560-070	REP	99-03-043	275-27-180	NEW	99-04-071
246-359-040	NEW	99-03-065	246-560-075	NEW	99-03-043	275-27-185	NEW	99-04-071
246-359-050	NEW	99-03-065	246-560-077	NEW	99-03-043	275-27-190	NEW	99-04-071
246-359-060	NEW	99-03-065	246-560-085	NEW	99-03-043	275-27-191	NEW	99-04-071
246-359-070	NEW	99-03-065	246-802-990	AMD-P	99-02-057	275-27-192	NEW	99-04-071
246-359-080	NEW	99-03-065	246-808-101	REP-XR	99-03-061	275-27-193	NEW	99-04-071
246-359-090	NEW	99-03-065	246-808-301	REP-XR	99-03-061	275-27-194	NEW	99-04-071
246-359-100	NEW	99-03-065	246-808-320	REP-XR	99-03-061	275-27-195	NEW	99-04-071
246-359-110	NEW	99-03-065	246-808-330	REP-XR	99-03-061	275-27-196	NEW	99-04-071
246-359-120	NEW	99-03-065	246-808-340	REP-XR	99-03-061	275-27-197	NEW	99-04-071
246-359-130	NEW	99-03-065	246-808-350	REP-XR	99-03-061	275-27-198	NEW	99-04-071
246-359-140	NEW	99-03-065	246-808-360	REP-XR	99-03-061	275-27-199	NEW	99-04-071
246-359-150	NEW	99-03-065	246-808-370	REP-XR	99-03-061	275-27-200	NEW	99-04-071
246-359-160	NEW	99-03-065	246-808-380	REP-XR	99-03-061	275-27-202	NEW	99-04-071
246-359-170	NEW	99-03-065	246-808-390	REP-XR	99-03-061	275-27-204	NEW	99-04-071
246-359-180	NEW	99-03-065	246-808-390	REP-XR	99-03-061	275-27-211	NEW	99-04-071
246-359-200	NEW	99-03-065	246-808-640	REP-XR	99-03-061	275-27-212	NEW	99-04-071
246-359-210	NEW	99-03-065	246-808-990	AMD-P	99-02-057	275-27-213	NEW	99-04-071
246-359-220	NEW	99-03-065	246-810-990	AMD-P	99-02-057	275-30-010	AMD	99-03-077
246-359-230	NEW	99-03-065	246-817-990	AMD-P	99-02-057	275-30-030	AMD	99-03-077
246-359-240	NEW	99-03-065	246-822-990	AMD-P	99-02-057	275-30-040	AMD	99-03-077
246-359-250	NEW	99-03-065	246-830-990	AMD-P	99-02-057	275-30-050	REP	99-03-077
246-359-300	NEW	99-03-065	246-834-050	NEW	99-03-064	275-30-060	AMD	99-03-077
246-359-310	NEW	99-03-065	246-834-060	AMD	99-03-064	275-30-070	AMD	99-03-077
246-359-320	NEW	99-03-065	246-834-070	AMD	99-03-064	275-30-080	REP	99-03-077
246-359-330	NEW	99-03-065	246-834-080	AMD	99-03-064	284-43	AMD-C	99-03-037
246-359-340	NEW	99-03-065	246-840-125	PREP	99-03-066	284-43	AMD-C	99-03-038
246-359-350	NEW	99-03-065	246-840-740	NEW	99-04-051	284-43-130	AMD-P	99-03-006
246-359-400	NEW	99-03-065	246-843-060	REP	99-03-069	284-43-130	AMD-P	99-03-007
246-359-405	NEW	99-03-065	246-843-200	REP	99-03-068	284-43-810	NEW-P	99-03-006
246-359-410	NEW	99-03-065	246-843-220	REP	99-03-067	284-43-810	NEW-P	99-03-007
246-359-420	NEW	99-03-065	246-843-225	REP	99-03-067	296-17-900	AMD-E	99-04-106
246-359-430	NEW	99-03-065	246-845-990	AMD-P	99-02-057	296-24	PREP	99-02-083
246-359-440	NEW	99-03-065	246-847-990	AMD-P	99-02-057	296-24	PREP	99-04-057
246-359-500	NEW	99-03-065	246-849-990	AMD-P	99-02-057	296-27	PREP	99-02-083
246-359-510	NEW	99-03-065	246-850-060	NEW-P	99-03-083	296-28	PREP	99-02-083
246-359-520	NEW	99-03-065	246-851-990	AMD-P	99-02-057	296-32	PREP	99-02-083
246-359-530	NEW	99-03-065	246-915-990	AMD-P	99-02-057	296-32	PREP	99-04-057
246-359-540	NEW	99-03-065	246-924-990	AMD-P	99-02-057	296-36	PREP	99-02-083
246-359-550	NEW	99-03-065	246-926-990	AMD-P	99-02-057	296-37	PREP	99-02-083
246-359-560	NEW	99-03-065	246-928-990	AMD-P	99-02-057	296-45	PREP	99-02-083
246-359-565	NEW	99-03-065	246-930-990	AMD-P	99-02-057	296-45-015	AMD-XA	99-04-078
246-359-570	NEW	99-03-065	246-935-140	REP-XR	99-02-080	296-45-045	AMD-XA	99-04-078
246-359-575	NEW	99-03-065	251-01-014	NEW-P	99-02-054	296-45-17550	AMD-XA	99-04-078
246-359-580	NEW	99-03-065	251-01-015	AMD-P	99-02-054	296-45-215	AMD-XA	99-04-078
246-359-590	NEW	99-03-065	251-01-040	AMD-P	99-02-054	296-45-325	AMD-XA	99-04-078
246-359-600	NEW	99-03-065	251-01-190	AMD-P	99-02-054	296-45-455	AMD-XA	99-04-078
246-359-700	NEW	99-03-065	251-01-330	REP-P	99-02-054	296-45-901	AMD-XA	99-04-078
246-359-710	NEW	99-03-065	251-01-400	AMD-P	99-02-054	296-50	PREP	99-02-083
246-359-720	NEW	99-03-065	251-01-420	REP-P	99-02-054	296-52	PREP	99-02-083
246-359-730	NEW	99-03-065	251-01-440	AMD-P	99-02-054	296-52	PREP	99-04-057
246-359-740	NEW	99-03-065	251-17-090	AMD-P	99-02-054	296-54	PREP	99-02-083
246-359-750	NEW	99-03-065	251-23-010	AMD-P	99-02-054	296-56	PREP	99-02-083
246-359-760	NEW	99-03-065	251-23-030	AMD-P	99-02-054	296-59	PREP	99-02-083
246-359-800	NEW	99-03-065	251-23-040	AMD-P	99-02-054	296-62	PREP	99-02-083
246-359-990	NEW	99-03-065	251-23-050	AMD-P	99-02-054	296-62	PREP	99-04-057
246-560-001	AMD	99-03-043	251-23-060	AMD-P	99-02-054	296-63	PREP	99-02-083
246-560-002	NEW	99-03-043	251-24-030	AMD-P	99-02-054	296-65	PREP	99-02-083
246-560-010	AMD	99-03-043	260-44-110	AMD-P	99-02-082	296-67	PREP	99-02-083
			260-44-120	AMD-P	99-02-082			

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296- 78	PREP	99-02-083	314- 12-340	NEW	99-03-032	388-320-375	NEW-P	99-03-076
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